

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO PENSION GOVERNANCE REFORM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Subdivision (2) of Section 23 of Chapter 32 of the General Laws is hereby  
2 amended by striking out sub-paragraph (b) and inserting in place thereof the following: -

3           (b) The board of each system shall invest and reinvest the funds of such system in the PRIT Fund  
4 pursuant to subdivision (8) of section twenty two, in the PRIT Fund by purchasing shares of said fund, as  
5 provided for in the trust agreement adopted by the PRIM Board pursuant to subdivision (2A) or as  
6 follows:-

7           (i) in accordance with the standards set forth in subdivision (3), provided that: -

8           (A) no investment of funds shall be made in stocks, securities or other obligations of any company  
9 which derives more than 15 per cent of its revenues from the sale of tobacco products.

10          (B) in investing such funds the board shall employ an investment manager or investment managers  
11 who shall invest the funds of the system.

12          (C) no funds shall be invested directly in mortgages or collateral loans.

13          No investment of funds shall take place until board has received from the commission an  
14 acknowledgement of receipt of the following:-

15          (a) certification that, in making the selection, the board has complied with the process established in  
16 section 23A;

17          (b) a copy of the vendor certification required under section 23A;

18          (c ) copies of disclosure forms submitted by the selected vendor;

19          (d) a certification that the investment is not a prohibited investment as set forth in regulations of the  
20 commission;

21 (e) in the event that the board has retained a consultant, a copy of the consultant reports pertaining to  
22 the investment and the selected vendor;

23 (f) a copy of the board certification required under section 23A.

24 The commission may withhold the acknowledgement if it determines that it is in the best interest of  
25 the retirement system provided, however, that it must so notify the board within ten days of receipt of  
26 completed documents as required by this section.

27 Prior to the retention of an investment consultant the board must receive from the commission an  
28 acknowledgement of receipt of the following:-

29 (a) certification that, in making the selection, the board has complied with the process established in  
30 section 23A;

31 (b) copy of the vendor certification required under section 23A;

32 (c) copies of disclosure forms submitted by the selected consultant;

33 (d) copy of the board certification required under section 23A.

34 SECTION 2. Section 50 of Chapter 7 of the General Laws as appearing in the 2004 Official Edition  
35 is hereby amended by striking out lines 68 through 69 inclusive.

36 SECTION 3. Clause 19 of paragraph (b) of Section (1) of Chapter 30B of the General Laws is hereby  
37 amended by adding the following:-

38 provided, however, that such procurements shall take place in accordance with the provisions of  
39 section 23A of chapter 32.

40 SECTION 4. Chapter 32 of the General Laws is hereby amended by adding the following section: -

41 Section 21A. As used in this section the following words shall, unless the context requires otherwise,  
42 have the following meanings: -

43 "Affiliates", entities which are affiliates of each other when either directly or indirectly one concern  
44 or individual controls or has the power to control another, or when a third party controls or has the power  
45 to control both.

46 "Commission", the Public Employee Retirement Administration Commission.

47 "Contract", a contract for the furnishing of supplies or services to any retirement board.

48 "Debarment", an exclusion from contracting or subcontracting with a retirement board for a  
49 reasonable, specified period of time commensurate with the seriousness of the offense.

50 "Person", any natural person, business, partnership, corporation, union, committee, club or other  
51 organization, entity or group of individuals.

52 "Retirement board", a board established pursuant to the provisions of chapter 32, the provisions of  
53 chapter 34B or the Massachusetts water resources authority retirement board, excluding the pension  
54 reserves investment management board.

55 "Suspension", the temporary disqualification of a vendor who is suspected upon adequate evidence of  
56 engaging or having engaged in conduct which constitutes grounds for debarment.

57 "Vendor", any person that has furnished or seeks to furnish supplies or services under a contract with  
58 a retirement board.

59 (a) The Commission shall establish and maintain a consolidated list of vendors to whom contracts  
60 shall not be awarded and from whom offers, bids, or proposals shall not be solicited. The list shall show  
61 at a minimum the following information: (1) the names of those persons debarred or suspended in  
62 alphabetical order with appropriate cross reference where more than one name is involved in a single  
63 debarment or suspension;

64 (2) the basis of authority for each debarment or suspension;

65 (3) the extent of restrictions imposed;

66 (4) the termination date of each debarment or suspension; and

67 (5) in the case of a suspension, the hearing date, if and when set, for debarment proceedings.

68 The commission shall cause the list to be kept current by the issuance of notices of additions and  
69 deletions. The list shall be published on a periodic basis, together with notices of additions and deletions  
70 therefrom, in the goods and services bulletin and the central register published by the state secretary and  
71 in such other publications as the commission shall designate. The commission shall also forward said list  
72 to the inspector general, the attorney general, and the state auditor.

73 (b) Debarment may be imposed for the following causes:

74 (1) conviction or final adjudication by a court or administrative agency of competent jurisdiction of  
75 any of the following offenses:

76 (i) a criminal offense incident to obtaining or attempting to obtain a public or private contract or  
77 subcontract, or in the performance of such contract or subcontract;

78 (ii) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of  
79 records, receiving stolen property or any other offense indicating a lack of business integrity or business  
80 honesty which seriously and directly affects the vendor's present responsibility as a public contractor;

81 (iii) a violation of state or federal antitrust laws arising out of the submission of bids or proposals;

82 (iv) a violation of chapter two hundred and sixty-eight A;

83 (v) a violation of chapter thirty – two-.

84 (2) substantial evidence, as determined by the commission, of any of the following acts:

85 (i) willfully supplying materially false information incident to obtaining or attempting to obtain or  
86 performing any public contract or subcontract;

87 (ii) willful failure to comply with record-keeping and accounting requirements prescribed by law or  
88 regulation;

89 (iii) a record of failure to perform or of unsatisfactory performance in accordance with the terms of  
90 one or more public contracts, provided that such failure to perform or unsatisfactory performance has  
91 occurred within a reasonable period of time preceding the determination to debar and provided further  
92 that such failure to perform or unsatisfactory performance was not caused by factors beyond the vendor's  
93 control;

94 (iv) the submission to the board or the commission of an inaccurate disclosure statement

95 (v); the failure to disclose to the board and the commission any compensation provided to any person  
96 in regards to attempting to obtain or the performance of a public contract or subcontract, including, but  
97 not limited to, compensation provided by third parties retained by the vendor to any other person;

98 (vi) any other cause affecting the responsibility of a vendor which the commission determines to be of  
99 such a serious and compelling nature as to warrant debarment.

100 (c) No vendor may be suspended unless the commission has first informed the vendor by written  
101 notice of the proposed suspension mailed by registered or certified mail to the vendor's last known  
102 address, except when the commission determines that immediate suspension is necessary to prevent  
103 serious harm to the retirement system, in which case the suspension shall take effect immediately upon  
104 signing by the executive director of an order of suspension, and notice shall be mailed to the vendor at the  
105 earliest opportunity. The notice shall inform the vendor of the reasons for the proposed suspension and  
106 shall state that the vendor may within fourteen days respond in writing and may in such response request  
107 a hearing. The commission may extend the period for response at the request of the vendor. The  
108 commission shall determine whether to impose the suspension or, in the case of an emergency suspension  
109 imposed prior to notice to the vendor, whether to continue the suspension after reviewing the vendor's  
110 response, if any, and making such investigation as the commission determines is necessary and  
111 appropriate. An indictment, or any information or other filing by a public agency charging a criminal  
112 offense, for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence  
113 to support a suspension.

114 If the vendor requests a hearing, and the suspension is not based on an indictment, the commission  
115 shall conduct a hearing according to the rules for the conduct of adjudicatory hearings established by the  
116 secretary of administration pursuant to chapter thirty A. Such hearing shall be initiated within thirty days  
117 of the imposition of the suspension, unless the vendor requests that the hearing be delayed. Officers and  
118 employees of the commission and records of the commission shall not be subject to subpoena for such  
119 hearing, if in the opinion of the commission production of records or testimony would prejudice any  
120 pending investigation by the commission.

121 A suspension shall not exceed twelve months unless a pending administrative or judicial proceeding  
122 in which the vendor is a party may result in a conviction or final adjudication of an offense listed in  
123 paragraph (1) of subsection (c).

124 (d) No vendor may be debarred under this section unless the commission has first informed the  
125 vendor by written notice of the proposed debarment mailed by registered or certified mail to the vendor's  
126 last known address. The notice shall inform the vendor of the reasons for the debarment and shall state  
127 that the vendor will be accorded an opportunity for a hearing if the vendor so requests within fourteen  
128 days of receipt of the notice. A hearing requested under this paragraph shall be conducted by the  
129 commission within sixty days of receipt of the request, unless the commission grants additional time  
130 therefore at the request of the vendor. The hearing shall be conducted according to the rules for the  
131 conduct of adjudicatory hearings established by the commissioner of administration pursuant to chapter  
132 thirty A. A debarment shall not be imposed until (i) fourteen days after receipt by the vendor of notice of  
133 the proposed debarment if no hearing is requested, or (ii) the issuance of a written decision by the  
134 commission which makes specific findings that there is sufficient evidence to support the debarment and  
135 that debarment for the period specified in the decision is required to protect the integrity of the public  
136 contracting process. A vendor shall be notified forthwith of the decision by registered or certified mail,  
137 and of the vendor's right to judicial review in the event that the decision is adverse to the vendor. If a  
138 suspension precedes a debarment, the suspension period shall be considered in determining the debarment  
139 period.

140 (e) A debarment or suspension may include all known affiliates of a vendor. The decision to include a  
141 known affiliate within the scope of a debarment or suspension shall be made on a case-by-case basis, after  
142 giving due regard to all relevant facts and circumstances. The offense or act of an individual justifying  
143 suspension, or the evidence justifying a suspension, may be imputed to the entity with which the  
144 individual is connected when such offense or act occurred in connection with the individual's  
145 performance of duties for or on behalf of the entity or with the knowledge, approval, or acquiescence of  
146 the entity or one or more of its principals. The entity's acceptance of the benefits derived from the conduct  
147 shall be evidence of such knowledge, approval, or acquiescence. The offense or act of an entity justifying  
148 debarment, or the evidence justifying a suspension, may be imputed to any officer, director, shareholder,  
149 partner, employee or other individual associated with the entity who participated in, knew of, or had  
150 reason to know of the entity's act. An entity may not be suspended or debarred except in accordance with  
151 the procedures set forth in this section.

152 (f) In determining whether to debar a vendor, or the period of a debarment, all mitigating facts and  
153 circumstances shall be taken into consideration. A debarment may be removed or the period thereof may  
154 be reduced by the commission upon the submission of an application supported by documentary evidence

155 setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence,  
156 reversal of a judgment or conviction, bona fide change of ownership or management, or the elimination of  
157 the cause for which the debarment was imposed.

158 (g) During the period for which a person has been debarred or suspended, that person shall not submit  
159 or cause to be submitted offers, bids, or proposals to any retirement board, nor shall any retirement board  
160 solicit or consider offers, bids, or proposals from, nor execute, renew, or extend any contract with, a  
161 debarred or suspended vendor, and a vendor shall not contract for services from a debarred or suspended  
162 subcontractor on any contract with a retirement system.

163 SECTION 5. Subdivision (3) of Section 23 of Chapter 32 of the General Laws is hereby amended by  
164 adding the following:

165 Each member of a retirement board established pursuant to the provisions of this chapter shall upon  
166 the commencement of their term file with the commission a statement acknowledging that they are aware  
167 of and will comply with the standards set forth in chapter 268A of the general laws, the provisions of this  
168 chapter and the provisions of regulations promulgated pursuant to this chapter.

169 SECTION 6. Chapter 32 of the General Laws is hereby amended by adding the following section:-

170 Section 20C. (a) Every member of a retirement board shall file a statement of financial interests for  
171 the preceding calendar year with the commission within thirty days after becoming a member of a  
172 retirement board, on or before May first of each year thereafter that such person is a member of a  
173 retirement board and on or before May first of the year after such person ceases to be a member of a  
174 retirement board;

175 (b) The commission shall, upon receipt of a statement of financial interests pursuant to the provisions  
176 of this section, issue to the person filing such statement a receipt verifying the fact that a statement of  
177 financial interests has been filed and a receipted copy of such statement.

178 (c) No member of a retirement board shall be allowed to continue in his duties unless he has filed a  
179 statement of financial interests with the commission as required by this section.

180 (d) The statement of financial interests filed pursuant to the provisions of this section shall be on a  
181 form prescribed by the commission and shall be signed under penalty of perjury by the reporting person.

182 (e) Reporting persons shall disclose, to the best of their knowledge, the following information for the  
183 preceding calendar year, or as of the last day of said year with respect to the information required by  
184 clauses (2), (3) and (6) below; such persons shall also disclose the same information with respect to their  
185 immediate family provided, however, that no amount need be given for such information with regard to  
186 the reporting person's immediate family:

187 (1) the name and address of, the nature of association with, the share of equity in, if applicable, of  
188 each business with which he is associated;

189 (2) the identity of all securities and other investments with a fair market value of greater than one  
190 thousand dollars which were beneficially owned, not otherwise reportable hereunder;

191 (3) the name and address of each creditor to whom more than one thousand dollars was owed;  
192 provided, however, that obligations arising out of retail installment transactions, educational loans,  
193 medical and dental expenses, debts incurred in the ordinary course of business, and any obligation to  
194 make alimony or support payments, shall not be reported; and provided, further, that such information  
195 need not be reported if the creditor is a relative of the reporting person within the third degree of  
196 consanguinity or affinity;

197 (4) the name and address of the source, and the cash value of any reimbursement for expenses  
198 aggregating more than one hundred dollars in the calendar year if the recipient is a member of a  
199 retirement board and the source of such reimbursement is a person having a direct interest in a matter  
200 before the retirement board of which the recipient is a member;

201 (5) the name and address of the donor, and the fair market value, if determinable, of any gifts  
202 aggregating more than one hundred dollars in the calendar year, if the recipient is a member of a  
203 retirement board and the source of such gift(s) is a person(s) having a direct interest in a matter before the  
204 retirement board of which the recipient is a member;

205 (6) the name and address of the source, and the fair market value, of any honoraria aggregating more  
206 than one hundred dollars if the recipient is a member of a retirement board and the source of such  
207 honoraria is a person having a direct interest in a matter before a retirement board;

208 (7) the name and address of any creditor who has forgiven an indebtedness of over one thousand  
209 dollars, and the amount forgiven if the creditor is a person having a direct interest in a matter before a  
210 retirement board; provided, however, that no such information need be reported if the creditor is a relative  
211 within the third degree of consanguinity or affinity of the reporting person, or the spouse of such a  
212 relative; and ,

213 (8) the name and address of any business from which the reporting person is taking a leave of absence;

214 Nothing in this section shall be construed to require the disclosure of information, which is privileged  
215 by law.

216 Failure of a reporting person to file a statement of financial interests within thirty days after receiving  
217 notice in writing from the Commission which states in detail the deficiency and the penalties for failure to  
218 file a statement of financial interests, or the filing of an incomplete statement of financial interests after  
219 receipt of such a notice shall result in the removal of the reporting person from the board and he or she  
220 shall not be permitted to serve on any retirement board established pursuant to the provisions of this  
221 chapter, provided, however, that, in the event that the reporting person has filed an incomplete statement  
222 of financial interests said removal shall be stayed upon the filing of an appeal under sub-division (4) of

223 section 16. In the event the non-complying member is an ex-officio member his or her appointing  
224 authority shall appoint a different individual to serve on the board or in the event that said member is  
225 directly elected by the people a different individual shall be appointed to serve on the board by the Mayor,  
226 County Commissioners or Board of Selectman as the case may be.

227 SECTION 7. Clause 26th of Section 7 of Chapter 4 of the General Laws is hereby amended by  
228 adding the following sub-clause:-

229 (q) statements filed pursuant to Section 20C of Chapter 32.

230 SECTION 8. Section 20 of Chapter 32 of the General Laws is hereby amended by adding the  
231 following paragraph:-

232 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration, financial  
233 benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on  
234 the retirement board, from a retirement board or from any person doing business with a retirement board  
235 shall be eligible to serve on a retirement board provided, however, that an employee of a retirement board  
236 may serve on a retirement board other than the retirement board by which he or she is employed and  
237 provided, further, that the provisions of this paragraph shall apply only to individuals who first become  
238 members of a retirement board on or after January 1, 2010.

239 SECTION 9. Paragraph (b) of Section 19 of Chapter 34B of the General Laws is hereby amended in  
240 line 14 by inserting the following after the word "32":-

241 Provided that no employee, contractor, vendor or person receiving any remuneration, financial benefit  
242 or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the  
243 retirement board, from a retirement board or from any person doing business with a retirement board shall  
244 be eligible to serve on a retirement board provided, however, that an employee of a retirement board may  
245 serve on a retirement board other than the retirement board by which he or she is employed and provided,  
246 further, that the provisions of this paragraph shall apply only to individuals who first become members of  
247 a retirement board on or after January 1, 2010.

248 SECTION 10. Chapter 32 of the General Laws is hereby amended by adding the following section –

249 Section 23A (a) This section shall apply to every retirement board contract for the procurement of  
250 investment, actuarial, legal and accounting services.

251 As used in this section the following words shall, unless the context requires otherwise, have the  
252 following meanings:-

253 "Contract", all types of agreement for the procurement of services, regardless of what the parties may  
254 call the agreement.

255 "Contractor", a person having a contract with the retirement board.

256 "Retirement board", a board established under the provisions of this chapter, the provisions of chapter  
257 thirty – four B or the massachusetts water resources authority retirement board excluding the pension  
258 reserves investment management board.

259 "Majority vote", as to any action by or on behalf of a retirement board, a simple majority of the board.

260 "Minor informalities", minor deviations, insignificant mistakes, and matters of form rather than  
261 substance of the proposal, or contract document which can be waived or corrected without prejudice to  
262 other offerors, potential offerors, or the retirement board.

263 "Person", any natural person, business, partnership, corporation, union, committee, club, or other  
264 organization, entity or group of individuals.

265 "Procurement", acquiring a service, and all functions that pertain to the obtaining of a service,  
266 including description of requirements, selection and solicitation of sources, preparation and award of  
267 contract, and all phases of contract administration.

268 "Procurement officer", an individual duly authorized by the retirement board to assist in a  
269 procurement.

270 "Proposal", a written offer to provide a service at a stated price submitted in response to a request for  
271 proposals.

272 "Purchase description", the words used in a solicitation to describe the services to be purchased,  
273 including specifications attached to or incorporated by reference into the solicitation.

274 "Request for proposals", the documents utilized for soliciting proposals, including documents  
275 attached or incorporated by reference.

276 "Responsible bidder or offeror", a person who has the capability to perform fully the contract  
277 requirements, and the integrity and reliability which assures good faith performance.

278 "Responsive bidder or offeror", a person who has submitted a bid or proposal which conforms in all  
279 respects to the request for proposals.

280 "Services", the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a  
281 specific end product other than reports. This term shall not include employment agreements, collective  
282 bargaining agreements, or grant agreements.

283 (1) A retirement board shall enter into procurement contracts for investment, actuarial, legal and  
284 accounting services utilizing competitive sealed proposals, in accordance with the provisions of this  
285 section.

286 (2) A retirement board that awards a contract shall maintain a file on each such contract and shall  
287 include in such file a copy of all written documents required by this section. Written documents required  
288 by this section shall be retained by the retirement board for at least six years from the date of final  
289 payment under the contract.

290 (a) The retirement board or its procurement officer shall give public notice of the request for  
291 proposals and a reasonable time prior to the date for the opening of proposals. The notice shall:

292 (1) indicate where, when and for how long the request for proposal may be obtained;

293 (2) describe the service desired, and reserve the right of the retirement board to reject any or all bids;

294 (3) remain posted, for at least two weeks, in a conspicuous place in or near the offices of the  
295 retirement board until the time specified in the request for proposals; and

296 (4) be published at least once, not less than two weeks prior to the time specified for the receipt of  
297 proposals, in a newspaper of general circulation within the area served by the retirement board and in the  
298 case of a procurement for investment, accounting, actuarial or legal services in a publication of interest to  
299 those engaged in providing such services.

300 The retirement board or its procurement officer shall also place the notice in any publication  
301 established by the state secretary for the advertisement of such procurements.

302 The retirement board or its procurement officer may distribute copies of the notice to prospective  
303 bidders, and may compile and maintain lists of prospective bidders to which notices may be sent.

304 (b) The retirement board shall unconditionally accept a proposal without alteration or correction,  
305 except as provided in this paragraph. A bidder may correct, modify, or withdraw a proposal by written  
306 notice received in the office designated in the request for proposals prior to the time and date set for the  
307 proposal opening. After proposal opening, a bidder may not change the price or any other provision of the  
308 proposal in a manner prejudicial to the interests of the retirement board or fair competition. The  
309 retirement board shall waive minor informalities or allow the bidder to correct them. If a mistake and the  
310 intended proposal are clearly evident on the face of the proposal document, the procurement officer shall  
311 correct the mistake to reflect the intended correct proposal and so notify the bidder in writing, and the  
312 bidder may not withdraw the proposal. A bidder may withdraw a proposal if a mistake is clearly evident  
313 on the face of the proposal document but the intended correct proposal is not similarly evident.

314 (c) The retirement board shall solicit proposals through a request for proposals. The request for  
315 proposals shall include:

316 (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be  
317 delivered, the maximum time for proposal acceptance by the retirement board;

318 (2) the purchase description and all evaluation criteria that will be utilized pursuant to paragraph (d);  
319 and

320 (3) all contractual terms and conditions applicable to the procurement provided that the contract may  
321 incorporate by reference a plan submitted by the selected offeror for providing the required services.

322 The request for proposals may incorporate documents by reference; provided, however, that the  
323 request for proposals specifies where prospective offerors may obtain the documents. The retirement

324 board or its procurement officer shall make copies of the request for proposals available to all persons on  
325 an equal basis.

326 (d) The retirement board or its procurement officer shall not open the proposals publicly, but shall  
327 open them in the presence of one or more witnesses at the time specified in the request for proposals.  
328 Notwithstanding the provisions of section seven of chapter four, until the completion of the evaluations,  
329 or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the  
330 contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At  
331 the opening of proposals the retirement board or its procurement officer shall prepare a register of  
332 proposals which shall include the name of each offeror and the number of modifications, if any, received.  
333 The register of proposals shall be open for public inspection.

334 (e) The retirement board or its consultant retained pursuant to the provisions of this chapter shall be  
335 responsible for the initial evaluation of the proposals. The retirement board or its consultant retained  
336 pursuant to the provisions of this chapter shall prepare their initial evaluations based solely on the criteria  
337 set forth in the request for proposals. The evaluations shall specify in writing:

338 (1) for each evaluation criterion, a rating of each proposal as highly advantageous, advantageous, not  
339 advantageous, or unacceptable, and the reasons for the rating;

340 (2) a composite rating for each proposal, and the reasons for the rating; and

341 (3) revisions, if any, to each proposed plan for providing the required services which should be  
342 obtained by negotiation prior to awarding the contract to the offeror of the proposal.

343 In the event the initial evaluation is conducted by a consultant retained pursuant to the provisions of  
344 this chapter said consultant shall review all initial evaluations with the retirement board and provide to  
345 each member of the retirement board the initial evaluation of each proposal.

346 (f) The retirement board shall determine the most advantageous proposal from a responsible and  
347 responsive offeror taking into consideration price and the evaluation criteria set forth in the request for  
348 proposals. The retirement board shall award the contract by written notice to the selected offeror within  
349 the time for acceptance specified in the request for proposals. The parties may extend the time for  
350 acceptance by mutual agreement. The retirement board may condition an award on successful negotiation  
351 of the revisions specified in the evaluation, and shall explain in writing the reasons for omitting any such  
352 revision from a plan incorporated by reference in the contract.

353 (g)(1) In the event of a competitive process to select an investment service provider the request for  
354 proposals shall include mandatory contractual terms and conditions to be incorporated into the contract  
355 including provisions stating that the contractor is a fiduciary with respect to the funds which the  
356 contractor invests on behalf of the retirement board, provisions stating that the contractor shall not be  
357 indemnified by the retirement board, provisions requiring the contractor to annually inform the

358 commission and the board of any arrangements in oral or in writing, for compensation or other benefit  
359 received or expected to be received by the contractor or a related person from others in connection with  
360 the contractors services to the retirement board or any other client, provisions requiring the contractor to  
361 annually disclose to the commission and the retirement board any compensation, in whatever form, paid  
362 or expected to be paid, directly or indirectly, by the contractor or a related person to others in relation to  
363 the contractors services to the retirement board or any other client, and provisions requiring the contractor  
364 to annually disclose to the commission and the retirement board in writing any conflict of interest the  
365 contractor may have that could reasonably be expected to impair the contractor's ability to render unbiased  
366 and objective services to the retirement board. Other mandatory contractual terms and conditions shall  
367 address investment objectives, brokerage practices, proxy voting and tender offer exercise procedures,  
368 terms of employment and termination provisions. The retirement board shall make a preliminary  
369 determination of the most advantageous proposal from a responsible and responsive offeror taking into  
370 consideration price and the evaluation criteria set forth in the request for proposals. The retirement board  
371 or its duly designated agent, subject to the approval of the retirement board, may negotiate all terms of the  
372 contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with such  
373 offeror, the retirement board in consultation with its duly designated agent and its consultant retained  
374 pursuant to the provisions of this chapter determines that it is in the best interests of the retirement board,  
375 the retirement board in consultation with its consultant retained pursuant to the provisions of this chapter  
376 may determine the proposal which is the next most advantageous proposal from a responsible and  
377 responsive offeror taking into consideration price and the evaluation criteria set forth in the request for  
378 proposals, and may negotiate all terms of the contract with such offeror. The retirement board shall award  
379 the contract to the most advantageous proposal from a responsible and responsive offeror taking into  
380 consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the  
381 negotiated contract. The retirement board shall award the contract by written notice to the selected offeror  
382 within the time for acceptance specified in the request for proposals. The time for acceptance may be  
383 extended for up to 45 days by mutual agreement between the retirement board and the responsible and  
384 responsive offeror offering the most advantageous proposal as determined by the retirement board.

385 On or before January 1 of each year the contractor shall file the disclosures required herein with the  
386 board and the commission. Failure to file disclosures or the filing of inaccurate disclosures shall subject  
387 the contractor to proceedings under section 21A.

388 (2) The retirement board may cancel a request for proposals or may reject in whole or in part any and  
389 all proposals when the retirement board determines that cancellation or rejection serves the best interests  
390 of the system. The retirement board shall state in writing the reason for a cancellation or rejection.

391 (3) A person submitting a proposal for the procurement or disposal of services to any retirement  
392 board shall certify in writing on the proposal as follows:

393 The undersigned certifies under penalties of perjury that this proposal has been made and submitted in  
394 good faith and without collusion or fraud with any other person. As used in this certification, the word  
395 ""person" shall mean any natural person, business, partnership, corporation, union, committee, club, or  
396 other organization, entity, or group of individuals.

397 \_\_\_\_\_  
398 (Signature of individual submitting bid or proposal)

399 \_\_\_\_\_  
400 (Name of business)

401 (4) Each retirement board member shall certify to the commission in writing with respect to a  
402 procurement subject to the provisions of this section, as follows:

403 The undersigned certifies under penalties of perjury that, to the best of his/her knowledge and belief,  
404 this proposal has been made and submitted in good faith and without collusion or fraud with any other  
405 person. As used in this certification, the word ""person" shall mean any natural person, business,  
406 partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

407 \_\_\_\_\_  
408 (Signature of individual retirement board member)

409 \_\_\_\_\_  
410 (Name of retirement board)

411 (5) No person shall cause or conspire to cause the splitting or division of any request for proposals,  
412 proposal, solicitation, or quotation for the purpose of evading a requirement of this section.

413 (6) Unless otherwise provided by law and subject to paragraph (a), a retirement board may enter into  
414 a contract for any period of time which serves the best interests of the retirement board; provided,  
415 however, that the retirement board shall include in the solicitation the term of the contract and conditions  
416 of renewal, extension or purchase, if any.

417 (a) A retirement board shall not award a contract for a term exceeding five years, including any  
418 renewal, extension, or option provided, however, that a retirement board may participate in a limited  
419 partnership, trust or other entity with a term for a period longer than five years as part of an investment of  
420 system assets.

421 When a contract is to contain an option for renewal, extension, or purchase, the solicitation shall  
422 include notice of the provision. The retirement board shall retain sole discretion in exercising the option,  
423 and no exercise of an option shall be subject to agreement or acceptance by the contractor.

424 (b) The retirement board shall not exercise an option for renewal, extension or purchase unless the  
425 retirement board, after reasonable investigation of costs and benefits, has determined in writing that the  
426 exercise of the option is more advantageous than alternate means of procuring comparable services.

427 (7) All specifications shall be written in a manner which describes the requirements to be met without  
428 having the effect of exclusively requiring a proprietary service, or a procurement from a sole source.

429 (8) All contracts shall be in writing, and the retirement board shall make no payment for a service  
430 rendered prior to the execution of such contract.

431 (a) A contract made in violation of this section shall not be valid, and the retirement board shall make  
432 no payment under such contract. Minor informalities shall not require invalidation of a contract.

433 (b) A person who causes or conspires with another to cause a contract to be solicited or awarded in  
434 violation of a provision of this section shall forfeit and pay to the appropriate retirement board a sum of  
435 not more than two thousand dollars for each violation. In addition, the person shall pay double the amount  
436 of damages sustained by the retirement board by reason of the violation, together with the costs of any  
437 action. If more than one person participates in the violation, the damages and costs may be apportioned  
438 among them.

439 (c) The commission or the retirement board shall have authority to institute a civil action to enforce  
440 paragraph (b).

441 SECTION 11. Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the General Laws, as  
442 appearing in the 2002 Official Edition, is hereby amended by striking out lines 842 through 845 inclusive  
443 and inserting in place thereof the following: -

444 (a) The elected and appointed members of any city, town, county, regional, district, or authority  
445 retirement board upon acceptance of the appropriate legislative body shall receive a stipend provided,  
446 however, that said stipend shall not be less than three thousands dollars per annum nor exceed seven  
447 thousand five hundred dollars per annum; provided further,

448 SECTION 12. Said subdivision, as so appearing, is hereby further amended in line 853 by striking  
449 out the words "three thousand" and inserting in place thereof the word "seven thousand five hundred".

450 SECTION 13. Section 20 of Chapter 32 of the General Laws is hereby amended by adding the  
451 following sub-division:-

452 (7) During each full term of service retirement board members shall be required to undertake  
453 eighteen hours of training provided, however, that no less than three hours take place each year and no  
454 more than nine hours take place in any single year.

455 Such training shall consist of nine hours sponsored by the commission which shall include, at a  
456 minimum, the topics of fiduciary responsibility, ethical conduct, and conflict-of-interest, and nine hours  
457 of training on topics prescribed by the commission provided by the Massachusetts Association of

458 Contributory Retirement Systems or other local, state, regional and national organizations recognized by  
459 the commission as having expertise in retirement issues of importance to retirement board members or  
460 other entities, as the commission may from time to time determine.

461 The commission shall arrange for at least eighteen sessions during each year for members to  
462 complete this requirement. In addition, the commission shall schedule additional sessions or otherwise  
463 make accommodations to insure that members are afforded the maximum opportunity to complete this  
464 requirement.

465 The commission shall provide retirement board with a statement of completion of education form on  
466 or before December 31 of each year. The board shall provide the forms to their members. The form shall  
467 set forth the training as required by this sub-division the member has undertaken during that year. Board  
468 members shall submit the completed form to the commission by January 31 of the year following. The  
469 commission shall provide the member with a summary of his or her status regarding the completion of  
470 this requirement by February 1 of each year.

471 Failure to successfully complete the requirements of this sub-division shall prohibit a board member  
472 from serving beyond the conclusion of the term in which the failure took place. In the event the non-  
473 complying member is an ex officio member or a second member of a board the appointing authority for  
474 the second member shall appoint a different individual to serve on the board, provided, however, that in  
475 the case of the replacement of an ex officio member the individual be experienced in the field of finance  
476 or auditing and provided, further, that in regional retirement systems non-complying members shall be  
477 replaced in the same manner as is set forth for the selection of said members.

478 Each retirement board shall notify all prospective board members and board members of the  
479 requirement to complete education requirements at the time of receiving information about seeking  
480 election to a retirement board, or prior to being appointed to a retirement board.

481 The commission shall annually notify board members of the requirement to complete continuing  
482 education.

483 The requirements established by this sub-division shall become effective for calendar year 2010.

484 SECTION 14. Chapter 150E section 7 is hereby amended by adding the following new subsection  
485 (e):

486 Any employer entering into a collective bargaining agreement with an employee organization must  
487 provide a copy of said agreement to the retirement board to which the employees covered by the  
488 agreement are members. All retirement systems must maintain files of all active collective bargaining  
489 agreements which cover the systems members. The retirement board shall review collective bargaining  
490 agreements for compliance with the provisions of chapter 32.

491 SECTION 15. Chapter 32 section 21 is hereby amended in line 15 by adding the following new  
492 sentence after the word "system":

493        Each board shall maintain copies of all collective bargaining agreements which cover the systems  
494 members and shall make such agreements available to the commission for review at such time as the  
495 commission shall specify.