



## Memorandum # 12/2006

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
Five Middlesex Avenue, Third Floor, Somerville, MA 02145  
Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)  
Domenic. J. F. Russo, *Chairman* | A. Joseph DeNucci, *Vice Chairman*  
Henry G. Brauer | Kenneth J. Donnelly | James M. Machado | Donald R. Marquis | Thomas Trimarco  
Joseph E. Connarton, *Executive Director*

### MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: PERAC's Proposed Regulations (**Not Yet in Effect**)

DATE: January 31, 2006

A proposed amendment to 840 CMR 15.03 has completed the public notice, hearing and comment period. On January 25, 2006 the Public Employee Retirement Administration Commission voted to file the amendment to 840 CMR 15.03 with the clerks of the house of representatives and the senate. Attached is a copy of the proposed regulation that was filed with the clerks on January 31, 2006. Please note that this proposal is not yet effective, as it must complete the legislative review process described below.

The amendment to 840 CMR 15.03 clarifies that ad hoc or temporary payments to members of retirement systems which will not recur or which will recur for only a limited or definite term are not regular compensation for purposes of making contributions to the retirement system or for calculating retirement allowances. The primary sort of such ad hoc payments are "salary augmentation plans" or "salary enhancement programs". These are contractual provisions that allow employees to elect to receive a temporary salary increase, often for a three year period, in some cases in exchange for giving up a longevity payment or a sick leave buy-out at retirement. These payments have been considered to be regular compensation in some instances, so the Commission has included a "grandfathering" provision that will allow such payments to retain this status at the current level for persons covered by a contract that contains such a provision for the term of contracts in existence on January 25, 2006, and for a successor collective bargaining agreement or individual employment contract. Only those plans that are otherwise consistent with the provisions of G.L. c. 32 will be granted this status. Thus, a plan requires notice of retirement or termination in order to be eligible to participate will not be considered to be regular compensation because G.L. c. 32, § 1 specifically excludes such payments.

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Pursuant to the provisions of G.L. c. 7, § 50, the clerks shall refer to the appropriate standing committee of the general court. If the general court takes no final action relative to the regulations within forty-five days of the date said regulations are filed with the clerks of the house of representatives and the senate, the general court not having prorogued within said forty-five days, the regulations shall be deemed to be approved. Within fifteen days of receipt of any the recommendations, the committee shall transmit in writing to PERAC its suggestions, if any, for modifications in recommended regulations. Within fifteen days of receipt of the committee's suggestions, PERAC shall resubmit the regulations to the committee, together with any modifications made to them.

Attachment