

CRITICAL PLAN ELEMENTS

Public Employees Contributory Retirement Systems of Massachusetts

Massachusetts General Laws, Chapter 32

INITIAL QUALIFICATION

(Item 3a)

The Taxpayer's Plan is intended to be a qualified governmental plan under Code Sections 401(a) and 414(d).

The Plan document consists of the following:

- Applicable provisions of Massachusetts General Laws ("M.G.L."), Part I, Title IV, Chapter 32; and
- Applicable provisions of 840 CMR.

Note: As a governmental plan, the Plan is not governed by a single, comprehensive plan document. Rather, the provisions of the Plan "document" are established by two sources: legislative enactments and regulatory provisions. The legislative body of the Commonwealth of Massachusetts and the Governor enact statutes which establish the Plan and many of its governing provisions. Pursuant to statutory authority, the Public Employees Retirement Administration Commission ("PERAC")¹ promulgates rules that are applicable to the Plan. The General Laws of Massachusetts and the Code of Massachusetts Regulations are not "restated" but, rather, are updated periodically as amendments are made to their provisions.

The Plan has not previously been submitted to the IRS to obtain a favorable determination letter.

We are requesting a determination on the continued qualified status of the Plan in its entirety under Section 401(a) of the Internal Revenue Code of 1986, as amended, pursuant to Revenue Procedure 2008-6 and Revenue Procedure 2007-44. The Plan is complete in all respects and has been amended to comply with all requirements under the 2007 Cumulative List under IRS Notice 2007-94. Therefore, we would envision that the date for the determination letter would be stated as follows: "This determination letter is applicable for the plan as in effect on January 1, 2008, and for the proposed amendments submitted with the filing of the Form 5300."

¹ PERAC is an oversight commission established by the Massachusetts Legislature to oversee the public employees' retirement system of Massachusetts. Massachusetts General Laws ("M.G.L."), Part I, Title IV, Chapter 32 is the retirement plan for public employees. The public employees retirement system is comprised of 106 separate contributory retirement systems, and each system is administered by a separate retirement board. M.G.L. c. 32, § 20. The Plan is one of these 106 contributory systems.

OTHER PLANS
(Item 8(a))²

We have answered this from the perspective of the retirement plan. Certain employers may maintain 403(b) and/or 457 plans, which are not administered by the retirement plans.

² Numbers of Items correspond to line numbers on Form 5300.

GENERAL ELIGIBILITY REQUIREMENTS

(Item 9a)

Type of Plan

The public employees' retirement system of Massachusetts is a contributory defined benefit system. Massachusetts General Laws Chapter 32 is the retirement plan for public employees. Most of the plan provisions are the same for all 106 retirement systems, and those provisions are described below. Variations to the general system are allowed for specific provisions which are noted on the attached "Local Options" worksheet.

Eligible members receive a retirement allowance determined by a statutory formula based on age, years of service, and an average of their three highest consecutive years of salary. Massachusetts General Laws ("M.G.L.") Chapter 32, § 5(2)(a). Employees contribute to the plan throughout their careers at established rates. M.G.L. c. 32, § 22 (1)(b)(i)(ii)(iii)(iv.) Part of the retirement allowance is an annuitized return of employee contributions and interest at an annual established rate. The remainder of the benefit is funded by investment returns on employee contributions and annual appropriations from the sponsoring governmental units. Members may elect to receive a return of their contributions, plus interest at the established rate, instead of a retirement allowance. There is no defined contribution component to the plan, though such plans are available to most public employees separately.

The retirement system is comprised of 106 separate contributory retirement systems, overseen by the Public Employee Retirement Administration Commission ("PERAC") (M.G.L. c. 7, § 49 and § 50, c. 32, § 21 and c. 34B, § 19). Each system is administered by a separate retirement board. M.G.L. c. 32, § 20 and c. 34B, § 19.

Most state employees are members of the State Employees Retirement System ("SERS"), which is administered by the five member State Board of Retirement and its staff. Several independent state agencies have separate retirement systems, administered by their own retirement boards and staffs, for their own employees. See, generally, M.G.L. c. 32, § 20. (SERS is filing a separate determination letter request.)

Teachers employed by all Massachusetts cities and towns, except the City of Boston, as well as regional school districts, collaboratives and charter schools are members of the Teachers' Retirement System ("TRS"), which is administered by a seven member board and its staff. M.G.L. c. 15, § 16 and c. 32, § 20. (TRS is filing a separate determination letter submission.) All employees of the City of Boston are members of the State-Boston Retirement System, which is administered by a five member board and its staff. M.G.L. c. 32, § 20.

All other public employees (except teachers) are members of local systems if they meet the eligibility requirements. Each such system is administered by its own five member board and its staff.

Membership – Employee Mandatory Coverage

All full-time public employees must be members of their applicable retirement system. See, generally, M.G.L. c. 32, § 3(2). In addition, and except as noted below, each retirement system may establish eligibility rules for part-time, provisional, temporary, temporary provisional,

seasonal or intermittent employment. M.G.L. c. 32, § 3(2)(d). Generally, each system requires all such employees meeting certain thresholds of employment to be enrolled in membership.

Members are classified by the retirement board based on information provided by the department head within 30 days of employment or within 30 days of a change in assignment, or upon the request of the retirement board, into four statutory groups for which different age factors apply in the benefit formula. Three of these groups are applicable to the 104 non-state wide plans (Group 3 includes officers and inspectors of the state police officers, all of whom are members of the State Employees Retirement System). The maximum age factor is reached at different ages for each group. In general:

Group 1 is composed of officials and all general employees including clerical, administrative and technical workers, laborers, and mechanics. An employee who does not qualify for another Group is in Group 1. M.G.L. c. 32, § 3(2)(g). The maximum age factor for Group 1 employees is reached at age 65. M.G.L. c. 32, § 5(2).

Group 2 is composed of certain statutorily specified jobs, including certain public safety officers, some judicial employees, and municipal and county employees in certain specified positions. M.G.L. c. 32, § 3(2)(g). The maximum age factor for Group 2 employees is reached at age 60. M.G.L. c. 32, § 5(2).

Group 4 is composed of most other public safety employees and state and county corrections officers. M.G.L. c. 32, § 3(2)(g). The maximum age factor for Group 4 employees is reached at age 55. M.G.L. c. 32, § 5(2).

See Local Options worksheet for additional information.

Excluded Employees

Independent contractors are not considered employees and thus are excluded from membership.

As noted above, each retirement system may establish eligibility rules for part-time, provisional, temporary, temporary provisional, seasonal or intermittent employment, thus in any individual system some such employees will be excluded.

See Local Options worksheet for additional information.

Optional Membership

Except for part-time, provisional, temporary, temporary provisional, seasonal or intermittent employees (as described in the Local Options Worksheet, Eligibility Rules section), membership is mandatory for the majority of those regularly employed by a government entity. Employees who are ineligible for membership, such as retirees who are waiving their retirement allowances, must be enrolled in a separate retirement plan. M.G.L. c. 32, § 3A.

The Legislature has carved out an exception to mandatory membership for compensated elected officials. Compensated elected officials may elect within 90 days of their election whether or not to join the system.

Individuals earning less than \$200 per year may only participate if allowed by the applicable retirement board. See, generally, M.G.L. c. 32, § 3(2). Compensated elected officials may choose to participate whether or not they reach that \$200 threshold.

Retirees appointed to a position for a term of years by the governor, or who are appointed by a mayor, a city council, town selectmen or a sheriff may elect to become a member of the system again. M.G.L. c. 32, § 5(1)(g). In order for this election to take place, repayment of all retirement allowances received by the member is mandatory.

Re-employed retired members may elect to rejoin the system and begin contributing and accruing creditable service again. See M.G.L. c. 32, § 5(1)(g) and discussion of section 105 of chapter 32 under "Reemployed Retired Members" below.

Any member continuing in service after having attained the age of seventy (70) may irrevocably elect to accrue creditable service and receive regular compensation. M.G.L. c. 32, § 90G^{3/4}. Any member so electing shall continue to have deductions made from his regular compensation, and shall upon retirement receive a superannuation retirement or veteran's pension allowance, as applicable, based on the years and full months of service rendered and the regular compensation received prior to having attained said age seventy, together with the years and full months of service rendered and the regular compensation earned subsequent to such election.

Termination of Membership

Membership in the plan terminates upon death or separation from service combined with a refund of the member's contributions. M.G.L. c. 32, § 3(1) (A member who separates from service but does not receive a refund of contributions is considered an "inactive" member of the plan. M.G.L. c. 32, § 3(1)). Police and fire members are generally subject to mandatory retirement at age 65. See M.G.L. c. 32, §§ 80, 83, 83A, 85, 85E. See also M.G.L. c. 32, §§ 56-60 (special retirement provision for certain veterans who are incapacitated for further service).

In addition, a member who misappropriates funds or is convicted of certain crimes forfeits all benefits except, in some cases, a return of his/her contributions without interest. M.G.L. c. 32, § 15. Such forfeiture is tantamount to a termination of membership.

Employee Contributions

The current contributory retirement system replaced a noncontributory one in 1946. As noted below, employee contributions at specified percentages are mandatory.

Amount

In general, the percentage of mandatory employee contributions is determined by the date of an employee's membership in the system. (A member who separates from service and takes a refund of contributions is considered to have severed all connection to the retirement system.) Thus, if such a member re-enrolls at a later time, his/her contribution rate is the rate applicable at that later date.

Employees who enrolled before January 1, 1975 contribute at the rate of 5%.

Employees who enrolled on or after January 1, 1975 but before January 1, 1984 contribute at the rate of 7%.

Employees who enrolled on or after January 1, 1984 but before July 1, 1996 contribute at the rate of 8%.

Employees who enrolled on or after July 1, 1996 contribute at the rate of 9%.

See, generally, M.G.L. c. 32, § 22(1)(b).

In addition, all members who were enrolled on or after January 1, 1979 contribute an extra 2% on all regular compensation the annual rate of which is in excess of \$30,000. M.G.L. c. 32, § 22(1)(b ½). For example, any regular compensation in excess of \$576.92 per week is subject to the additional 2% contribution.

All members are subject to the modern contributory retirement system described above, except that veterans with at least thirty years of service who began employment before July 1, 1939 may elect to retire with a pension equal to 72% of their highest annual rate of compensation under the prior, noncontributory system. Such a member receives a return of his or her accumulated total deductions, his retirement system membership terminates, and the pension is paid directly by the local governmental unit, not the contributory retirement system. M.G.L. c. 32, §§ 25(3), 58-60.

Pick-Up

All mandatory contributions described above are "picked up" under Internal Revenue Code section 414(h)(2). See M.G.L. c. 32, § 22(10). PERAC obtained a favorable private letter ruling on the pick-up of mandatory employee contributions dated March 16, 1988.

Employer Contributions

Governmental units whose employees make up the membership of the system make annual appropriations to the retirement system. For the local retirement systems who have adopted a funding schedule, such annual appropriations are equal to the normal cost of benefits attributable to that year plus a payment toward amortization of the unfunded accrued liability of the system, including cost of living adjustments, by the end of the funding schedule. The amount of the normal cost and amortization is determined annually by the PERAC actuary for those systems that accept a separate funding schedule. M.G.L. c. 32, §§ 22(7) and 22D. There is a separate funding schedule established by the PERAC actuary for early retirement incentive programs. See also discussion below under Early Retirement Benefits.

VESTING
(Item 10g)³

In general, members are eligible for a retirement allowance if certain conditions are met after (1) twenty years of service; or (2) for members in Groups 1 and 2 becoming a member on or after January 1, 1978, after 10 years of service and after attaining age 55. M.G.L. c. 32, §§ 5(1) and 10(1). There is no 10 year vesting requirement for members in Group 4, or for any member in Groups 1 or 2 who first entered service before January 1, 1978. M.G.L. c. 32 § 5(1)(m). Elected officials, regardless of what date they first entered service, are vested upon achieving six years of service. M.G.L. c. 32, § 5(1)(m), 10(2)(b). Such members are vested and their rights are considered contractual in nature. M.G.L. c. 32, §§ 10(3) and 25. Only certain criminal convictions can cause such a member to forfeit his or her rights. M.G.L. c. 32, § 15.

A member who separates from service can receive a return of his/her accumulated contributions plus "regular interest" for the established period. M.G.L. c. 32, § 10(4).

³ Note: The General Instructions for Form 5300 indicate that a governmental plan that is not subject to Title I of the Employee Retirement Income Security Act of 1974 should skip this item on the Form 5300. However, we believe a summary of vesting provisions is helpful to the IRS when considering the application.

BENEFITS AND REQUIREMENTS FOR BENEFITS (Item 11a)

Normal Retirement

The normal retirement benefit (i.e., superannuation benefit) is determined by a formula. A percentage determined by the members' age is multiplied by the number of years of the member's creditable service, which is multiplied by the members' high three year salary average at the time of retirement. For Group 1 employees, the age factors under the statute range from 1.5% at age 55 to 2.5% at age 65, with the age factor increased by .1 % for each year over the age of 55. The age factor is decreased by .1% for each year under age 55 for members retiring before age 55. The age factor percentage does not increase for retirement ages above age 65. A retirement allowance can be no greater than 80% of the member's high three year salary average. M.G.L. c. 32, § 5(2)(a).

Thus, a Group 1 member retiring at age 60, with 30 years of creditable service, and a high three year salary average of \$60,000, has an annual retirement allowance calculated as follows:

$$2.0\% \times 30 \times \$60,000 = \$36,000$$

As noted above, Groups 2 and 4 have different age factors. See, generally, M.G.L. c. 32, § 5(2)(a). For Group 1, normal retirement age is considered to be age 65, since that generally is the earliest that a member can receive an unreduced retirement allowance. Individuals who begin their public employment early may actually attain the ceiling of 80% of their high year salary prior to reaching the maximum age factor for their group.

Members who are veterans receive an additional annual pension equal to \$15 per year of creditable service, up to a maximum of \$300 for 20 years of service. M.G.L. c. 32, § 5(2)(b.)

Early Retirement

According to the formula discussed above, members can receive a retirement allowance based on the reduced age factor percentage discussed above.

The Commonwealth (through legislation) has also periodically offered temporary early retirement incentive programs to employees. The following describes the most recent early retirement incentive programs that have been made available for adoption by local units (note that the adoption is by individual employers, not by the system):

- **Chapter 116 of the Acts of 2002:** Established a local option to allow cities, towns, counties, authorities and districts to offer an early retirement incentive program for eligible employees. Legislative and executive authority of unit had to accept the Act by November 1, 2002, and effective retirement dates were no later than December 31, 2002. Group 1, Group 2, or Group 4 employees who were eligible to receive a superannuation retirement allowance under M.G.L. c. 32, § 5(1) or § 10(1) on the effective date specified in their retirement application were eligible to participate. Under the Program, an eligible participant's retirement allowance was increased by adding up to five years of age or five years of creditable service, or a combination of age and creditable service, the sum of

which could not exceed five years. The executive authority could limit the additional credit that would be offered, and limit the total number of employees or classifications who could participate in the Program.

- **Chapter 46 of the Acts of 2003:** Established a local option to allow cities, towns, counties, authorities and districts to offer an early retirement incentive program for eligible employees. This Program offered essentially the same benefit enhancement as the 2002 Program and was implemented in a similar fashion.

The local unit decides whether to offer these programs, while the PERAC Board, through its actuary, determines the funding schedule (or reviewed the analysis performed by another actuary).

Benefit Payment Options

The retirement allowance may be payable under one of the following options, which must be elected by the member on or before the effective date of retirement: as a straight life annuity (M.G.L. c. 32, § 12(2)(a)—"Option (a)"); as a cash refund annuity (M.G.L. c. 32 § 12(2)(b)—"Option (b)"); or as a joint and last survivor annuity (M.G.L. c. 32, § 12(2)(c)—"Option (c)"). A member may nominate anyone to receive the cash refund benefit under Option (b), if any, and may designate the beneficiary at any time until death. For the joint and last survivor annuity Option (c), the member must designate the beneficiary at some time on or before the effective date of retirement. The member may nominate only the member's spouse, former spouse who has not remarried, child, parent, or sibling for the joint and last survivor annuity. Also, for the joint and last survivor annuity (Option (c)), if the member pre-deceases the beneficiary, the beneficiary would receive 2/3 of the amount that the member was receiving on the date of death. If the beneficiary pre-deceases the member, the member's allowance would "pop-up" to the full retirement allowance that the member would have received had they elected Option (a) at the time of retirement. The member cannot select a new Option (c) beneficiary.

If the member fails to make an election on or before the date the retirement allowance becomes effective, the allowance is payable in its cash refund annuity form, Option (b). Under Option (b), the member's designated survivor receives a cash refund equal to the balance, if any, of the member's accumulated total deductions minus the amount of the annuitized deductions and regular interest that the member actually received in retirement. See, generally, M.G.L. c. 32, § 12. The PERAC actuary determines the conversion factors for the different benefit forms.

The retirement allowance is payable only in one of the options described above. There is no "cash-out" option, nor an accelerated or deferred annuity option. As noted above, however, a member can elect to receive a return of his/her deductions plus regular interest instead of an allowance. M.G.L. c. 32, § 11. This return of accumulated deductions plus regular interest may be mandated when a retirement allowance would fall below a certain annual amount. M.G.L. c. 32, § 13. When a retirement allowance would be below \$360 per year, the member would only be entitled to a return of their accumulated deductions. For retirement allowances above \$360 annually but under \$600, the member would have the option of receiving a return of their accumulated deductions or a retirement allowance.

Reemployed Retired Members

Following retirement, a retiree can be re-employed by a public employer in Massachusetts only for up to 960 hours per year. The income that can be earned in any calendar year is limited to the difference between the retirement allowance paid in that year and the salary currently being paid for the position from which the member retired. Except as noted below, the re-employed retiree is not re-enrolled in the retirement system and accrues no additional service credit. M.G.L. c. 32, § 91(a), (b) and (d). This limitation is inapplicable to certain individuals, including those elected to office by a direct vote of the people post retirement.

A disability retiree who earns income is subject to additional earnings limitations. See, generally, M.G. L. c. 32, § 91A.

A member retired for superannuation pursuant to M.G.L. c. 32, §§ 5 or 10 can be re-employed and reinstated in membership in a retirement system only upon repayment of the retirement allowance received by him/her, plus interest. M.G.L. c. 32, § 105. Upon reinstatement, the member begins contributing again. If re-employed for at least five years, the member may re-retire with additional creditable service. If re-employed for less than five years, the member receives a refund of all payments made to the retirement system plus the additional contributions paid and may resume retirement, but without any additional creditable service.

In addition, an individual who "is elected to office by popular vote, or who is appointed to a position for a term of years by the governor, or who is appointed to any position by the mayor of a city or by a city council or by the selectmen of a town or by a sheriff, may elect to become a member in service of the system pertaining to the position to which he is elected or appointed; provided, that any such inactive member who is receiving a retirement allowance shall repay into the system from which he is receiving such allowance the total amount of any such allowance received from the date of his retirement to the date of his again becoming a member in service." M.G.L. c. 32, § 5(1)(g).

A member retired for disability under M.G.L. c. 32, § 6 or § 7 is periodically evaluated to determine if the member has become able to perform the essential duties of his prior position or similar job and, if so, may be restored to his prior position or a similar position under certain circumstances. M.G.L. c. 32, § 8. Upon return to work, the member shall become a member in service and receive creditable service for the period of the disability.

Any person retired from the service of the commonwealth, or any of its political subdivisions, under any provision of any general or special law or any person claiming under any such retired employee whether as beneficiary, dependent or otherwise, may waive and renounce for himself, his heirs and legal representatives any portion of the pension or retirement allowance payable to him from the commonwealth, or any of its political subdivisions, for such period as he may specify in such waiver and renunciation. Such person may, in lieu of specifying an exact period of time in such waiver and renunciation, include a provision that such shall remain in effect until further notice. M.G.L. c. 32, § 90B.

Deferred Benefits

Inactive Vested Members

Inactive vested members can retire under the applicable retirement formula, or receive a refund of their contributions, plus regular interest as limited by statute. M.G.L. c. 32, § 10(3). The formula is the same as that for active members.

Inactive Non-vested Members

Inactive non-vested members may receive a refund of their contributions, plus regular interest as limited by statute. M.G.L. c. 32, § 10(3).

Refund (upon termination of service)

All members may receive a refund of their contributions. Members who are terminated involuntarily receive all the interest credited to their account, as do members who leave service voluntarily and first became a member before January 1, 1984. For those who first become a member on or after January 1, 1984 who leave service voluntarily, if the member has been granted less than 60 months of creditable service, the rate of regular interest for purposes of calculating the amount to be paid out shall be zero. If the member has been granted more than 60 months but less than 120 months of creditable service, the rate of regular interest for purposes of calculating the amount to be paid shall be fifty per cent of the rate of regular interest otherwise payable. M.G.L. c. 32, § 11(1).

Disability Benefits

Non-work related

The plan provides a non-work related (*i.e.*, ordinary) disability benefit for members with at least 10 years of creditable service. M.G.L. c. 32, § 6. The entitlement to ordinary disability retirement with 10 (versus 15) years of creditable service is a local option, and it is an option that 5 of the 106 retirement boards have not adopted. In those 5 systems, 15 years of creditable service would be required for a non-veteran. See Local Options worksheet. If such members are veterans, the retirement allowance is equal to the annuitized contributions referred to above, plus a pension equal to ½ of the member's regular compensation received for the past 12 months.

For non-veteran disabled members below the age of 55, the benefit is equal to the superannuation retirement allowance the member would receive were he or she 55 years of age. The advantage of retiring for ordinary disability under the age of 55 is that the age factor is "bumped up" to age 55. For members over the age of 55, there would be no difference in the allowance paid between the ordinary disability retirement allowance and the superannuation retirement allowance.

See Local Options worksheet.

Work-related

The plan provides a work-related (*i.e.*, accidental) disability benefit for members. M.G.L. c. 32, § 7. There is no creditable service requirement. Members disabled due to a personal injury sustained or hazard undergone as a result of, and while in the performance of, their duties are entitled to receive the annuitized contributions referred to above, plus a pension equal to 72% of their annual regular compensation received, either on the date of injury or for the past twelve months, whichever is higher. (Note: there is a limit on the total yearly amount of the annuity)

plus pension of 75% of the member's compensation for persons becoming members after January 1, 1988 or for persons not continuously members in service since January 1, 1988.) M.G.L. c. 32, § 7(2)(a)(ii). Effective July 1, 2008, the supplemental benefit for eligible dependents is \$687.96 per dependent annually, provided the retirement system has accepted the supplemental dependent allowance under M.G.L. c. 32, § 7(2)(a)(iii) or the provisions of M.G.L. c. 32, § 22D or § 22(6A) (establishing a retirement system funding schedule).

Veterans receiving accidental disability retirement benefits are eligible for the same additional benefit of \$15 per year of creditable service, up to \$300 per year, available to superannuation retirees, if their retirement board and community adopted the local option to do so.

See Local Options worksheet.

Supplemental Dependent Allowance

Accepting the provisions of Section 22D (establishing a funding schedule), the supplemental dependent allowance is deemed to have been accepted. Any retirement system which has accepted the supplemental dependent allowance provided for in M.G.L. c. 32, § 7(2)(a)(iii), or which has accepted the provisions of M.G.L. c. 32, § 22D (under which the supplemental dependent allowance is also deemed to have been accepted) shall pay an annual amount of \$667.92 beginning July 1, 2007 for each eligible child as defined in M.G.L. c. 32, § 7(2)(a)(iii).

Domestic Relations Orders

Domestic relations orders, child support orders, and other judicial orders for division of benefits in connection with domestic relations matters are honored and enforced, and are an exception to the plan's general anti-alienation provision. M.G.L. c. 32, § 19.

Survivor Benefits for In-service Members

An active, in-service member may designate anyone to receive a return of his/her accumulated total deductions upon his/her death. Alternatively, a non-retired member may designate his or her spouse, former spouse who has not remarried, child, parent or sibling to receive a monthly survivor allowance equal to the member's portion of the joint and last survivor retirement allowance that the member could have received had he/she retired at age 55. (If the member dies before age 55, the age factor is increased to the factor applicable at age 55, and the beneficiary's age goes up a like number of years.) If the member does not designate such a beneficiary or designates a beneficiary other than his or her spouse, the member's spouse at the time of death has the right to elect the monthly survivor allowance if certain conditions are met. In addition, supplemental benefits for dependent children are payable to surviving spouses (or guardians) in the amount of \$120 per month for the first dependent child, \$90 per month for every other dependent child. M.G.L. c. 32, § 12B.

As noted above, retirees can elect, at the time of retirement, either a joint and last survivor option, which pays a monthly allowance to the survivor, or a refund of any remaining contributions and regular interest remaining in their account at the time of death (or no survivor benefit).

If a member dies as a result of, and while in performance of his or her duties, his or her spouse or children would be entitled to Accidental Death Benefits equal to seventy-two percent of the annual rate of regular compensation of such member on the date that such injury which led to the member's death occurred. They may also be entitled to a refund of accumulated total deductions. The surviving spouse or minor child of a retiree may receive an allowance equal to the pension portion the retiree was receiving if the retiree died as the natural and proximate result of the injury for which he was retired. M.G.L. c. 32, § 9.

In very limited circumstances, the surviving spouses of certain enumerated public safety officers may be entitled to killed in the line of duty benefits an amount of pension which shall be equal to the amount of salary which would have been payable to such public safety officer had he continued in service in the position held by him at the time of his death. M.G.L. c. 32, § 100.

Post-Retirement Cost of Living Adjustments

Each year the actuary prepares a report of the increase in the Consumer Price Index and adjustments to social security payments in the prior year, and recommends whether these indices justify a cost of living adjustment of up to 3%. Chapter 17 of the Acts of 1997 provided that the decision whether to grant a COLA is to be made by local decision makers for county, municipal, district, authority and other retirees. It also increased the base upon which the COLA will be calculated from \$9,000 to \$12,000. Section 51 of Chapter 127 of the Acts of 1999 added M.G.L. c. 32, § 103(i) which allows by local option a COLA in excess of the percentage increase allowed by M.G.L. c. 32, § 103(c), up to a maximum of 3% (on the first \$12,000 of the retirement allowance). Where this option is accepted, the legislative body of a city, town or county can vote annually to approve this Act and allow the retirement board to grant a COLA on the first \$12,000 of an allowance.

Sections 101 and 408 of Chapter 159 of the Acts of 2000 (the Fiscal Year 2001 state budget) allow those retirement systems and legislative bodies that have accepted Section 51 of Chapter 127 of the Acts of 1999 (see above) to pay to non-contributory retirees a cost of living adjustment equal to that granted to contributory retirees. This Act allowed the payment to be retroactive to July 1, 1999 (This provision is not a local option and the cost of such noncontributory COLAs are paid by the town, city, district or authority, not the retirement system.) For systems that have accepted Section 51, the retirement board must simply vote to pay the non-contributory COLA retroactively. In order to pay this, the board must have acted by June 20, 2001. In the future, in any year that a retirement board acts to grant an increased COLA, noncontributory retirees will automatically receive a COLA equal to that granted to contributory retirees.

DESCRIPTION OF COURT CASES⁴
(Item 12c)

⁴ When the IRS filing is made, a litigation report will have to be submitted if applicable. This will generally be court cases, not contested benefits that are being internally reviewed. Each plan will have to complete this Item.