

THE COMMONWEALTH OF MASSACHUSETTS
Public Employee Retirement Administration Commission
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MEMORANDUM

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Voting on Cost of Living Adjustments

DATE: August 3, 1998

The Ethics Commission recently ruled that a retiree who is a member of the retirement board of the system from which he retired can vote on the annual cost of living adjustment (COLA) for retirees, even though he or she will benefit if a COLA is granted.

The Ethics Commission was asked by a retiree who is an elected member of the board of the system from which he retired whether he could vote on the acceptance of Chapter 17 of the Acts of 1997. The retiree also asked whether, if the retirement board accepted Chapter 17 of the Acts of 1997, he could vote on the annual determination as to whether a COLA was to be granted.

The Ethics Commission noted that in an earlier opinion it had ruled that retirement board members could participate in particular matters that generally affected the financial interests of members of the retirement system. The Commission restated its earlier advice that board members could not participate in matters that uniquely affect them or immediate family members personally. The Commission concluded that in order to give meaning to the COLA legislation, the legislature intended to permit board members to participate in the decision despite their personal financial interest. The Ethics Commission recognized that members of a retirement board are subject to overriding obligations as fiduciaries who are required to discharge their duties for the exclusive purpose of providing benefits to the members and their beneficiaries with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of any enterprise of a like character with like aims.

Inquiries regarding this opinion should be directed to the Ethics Commission at Room 619, One Ashburton Place, Boston, MA 02108

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