

THE COMMONWEALTH OF MASSACHUSETTS
Public Employee Retirement Administration Commission
5 Middlesex Avenue, 3 rd Floor
Somerville, MA 02145
(617) 666-4446
Fax: (617) 628-4002
www.state.ma.us/PERAC

MEMORANDUM

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Follow up to Correct Salary for Military Buyback Memo

DATE: November 19, 1998

In PERAC Memo #52/1998, we advised the retirement boards that the Contributory Retirement Appeal Board had affirmed the decision of the Division of Administrative Law Appeals in the case of Templeton v. Plymouth County Retirement Board, CR-97-307. This decision is now final and has not been appealed further.

We have received questions regarding the need to seek additional funds from those who have already made the military service buyback and those who have already retired. G.L. c. 32, § 20(5)(c) requires the retirement boards to correct errors. Any individual who purchased military service at an incorrect rate as per this decision must make an additional payment(s) to remedy this error, regardless of whether they have completed the buyback or retired. If the member is retired, the board may seek a payment(s) from the retiree or modify the retiree's allowance to collect the additional funds required.

Legislation to allow a waiver of underpayments to retirement boards is currently before the Legislature, but has not yet been enacted. Unless and until such legislation is enacted, retirement boards do not have the authority to waive the additional amounts due in any circumstances.

If you have questions, please contact this office.