

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: *MacAloney v. Worcester Regional Ret. System and Public Employee Ret. Admin. Comm'n*, CR-11-19 (CRAB 2013)

DATE: May 30, 2014

On June 21, 2013, the Contributory Retirement Appeal Board issued a decision on call firefighters which has an effect on the implementation of G.L. c. 32, § 4(2)(b) by retirement boards as of the date of the decision. PERAC issued memoranda # 22/2013 and #33/2013 providing guidance to retirement boards as a result of the decision. Since the memoranda were issued, PERAC has received additional inquiries that will be addressed in this memorandum. For purposes of this memorandum, please note that reserve or permanent-intermittent police officers, and reserve or permanent-intermittent firefighters are impacted in the same fashion as call firefighters.

### **A. Calculating a buy back for a permanent firefighter who served as a call firefighter.**

This particular issue arises often in civil service communities when a call firefighter subsequently is appointed as a permanent member of the same municipality's fire department and was on a respective list or roster making the call firefighter eligible and available for such duties. The methodology for buying back such service is as follows:

Pursuant to the provisions of G. L. c. 32, § 4(2)(b), a permanent firefighter can purchase up to 5 years of creditable service for the time they served as a call firefighter or for the time he or she was on the respective list and/or roster making him or her eligible for such duty. For a call firefighter who was compensated for such service, he or she would pay the retirement contribution that would have been made on such pay received at the rate that was in effect for the year(s) the service was provided with buyback interest. For example, a call firefighter who was compensated for the years 1995-1997, would pay 8% on the pay received in 1995 and the pay received through June 30, 1996. They would pay 9% on the pay received after July 1, 1996.

### **B. Calculating a buy back for a permanent firefighter for the time he or she was on the respective list and/or roster making him or her eligible for such duty.**

Pursuant to the provisions of G. L. c. 32, § 4(2)(b), a permanent firefighter can purchase up to 5 years of creditable service for the time he or she was on the respective list and/or roster making



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him or her eligible for such duty. Pursuant to G.L. c. 32, § 85H, a call firefighter would buy back this time assuming an annual rate of salary of three thousand dollars (\$3,000) with buy back interest. For a firefighter who was on a list/roster and who did not actually respond to calls or who was not compensated he or she would pay retirement contributions on \$3,000 at the contribution rate that was in effect for the year(s) that the firefighter was on the respective list. For example, a call firefighter who was compensated for the years 1995-1997, would pay 8% on pay of \$3,000 for 1995 and 8% on pay of \$1,500 for time through June 30, 1996. They would pay 9% on pay of \$1,500 for the remainder of 1996 and 9% on pay of \$3,000 for 1997.

**C. Calculating a buy back for a permanent firefighter who has some time when he or she never actually served in such capacity as a call firefighter and some time he or she was on the respective list and/or roster making him or her eligible for such duty.**

In a case where a call firefighter has a full calendar year in the five year period in which he or she provides no service then pursuant to G.L. c. 32, § 85H, a call firefighter would buy back this time assuming an annual rate of salary of three thousand dollars (\$3,000). In the case where a call firefighter has been compensated for some service within the five year period, he or she would pay the retirement contribution that would have been made on such pay received at the rate that was in effect for the calendar year(s) in which the service was provided with buyback interest. It is of no consequence that the member did not serve during the entire calendar year.

*Example:*

*A firefighter is on the list and never makes a run in the first eight months of calendar year 1988. He makes two runs, one in October, and one in November, and is paid \$50 per run. For the firefighter to be credited with one calendar year of service, he will pay 8% of \$100, together with buy back interest.*

**D. Charging Interest on Buy back Payments**

Buy back interest would be charged prospectively from June 21, 2013 for any purchase made pursuant to G. L. c. 32, § 4(2)(b). For example, if a member has call firefighter service in 1975-1979, the retirement board should charge interest as of June 21, 2013. If a member has call firefighter service in 2014, the retirement board should begin to charge interest as of the time of service, i.e. 2014.

We trust the foregoing will be of some assistance to you. If you have any further questions, please contact Compliance Counsel Derek Moitoso.