PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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MEMORANDUM

TO: Municipal Chief Executive Officers

FROM: Joseph E. Connarton, Executive Director

RE: Municipal Early Retirement Incentive Program
Section 66 of Chapter 188 of the Acts of 2010

DATE: July 30, 2010

Note: This Memorandum addresses only Section 66 of Chapter 188 of the Acts of 2010, the Municipal Early Retirement Incentive Program. Several other sections of the Act relate to public retirement systems and will be addressed in a separate memorandum.

On July 27, 2010 Governor Patrick signed the Municipal Relief Act (Chapter 188 of the Acts of 2010). He also filed a letter with the Secretary of State (pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth of Massachusetts, the Referendum II, Emergency Measures) declaring that in his opinion immediate preservation of the public peace, health, safety or convenience requires that the Act take effect immediately. As a result, the effective date of the Act is July 27, 2010. Section 66 of the Act establishes an Early Retirement Incentive Program for municipal employees. This memorandum is intended to outline this program. It is not a substitute for a careful reading of the statute. A copy of Section 66 of Chapter 188 of the Acts of 2010 is attached.

Section 66 establishes an early retirement incentive ("ERI") for municipal employees. This incentive is accepted locally and is only available to employees of cities and towns.

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TO: Municipal Chief Executive Officers
FROM: Joseph E. Connarton, Executive Director
RE: Municipal Early Retirement Incentive Program
Section 66 of Chapter 188 of the Acts of 2010
DATE: August 3, 2010

What steps must be taken to establish and accept an ERI?

A municipality can decide to offer an ERI. The language of the Act indicates that the process is initiated by the Chief Executive Officer of the municipality. When the municipality chooses to participate, the following steps must be taken:

1. The municipality's chief executive officer ("CEO") submits the municipality's plan to the PERAC Actuary for approval within 2 months of the effective date of the act (September 28, 2010 deadline). In a town, the CEO would be the town manager or town administrator. In a city, the CEO would be mayor or the city manager under a Plan E Charter. In a city known as a town, the CEO would be the town manager or town administrator. For a municipal lighting plant, the CEO is the manager of the municipal lighting plant.

2. Once the plan is approved by the PERAC Actuary, it is submitted to the municipality's legislative body for acceptance at the next meeting of the legislative body. In a town, the legislative body would be the town meeting. In a city known as a town, the legislative body would be the town council. In a city, the legislative body would be the city council.

3. Once the plan is accepted by the legislative body, it must be published and made available to all active employees within one month of that acceptance date.

4. Employees must apply to participate in the plan within 2 months of the publication of the plan.

5. The CEO must determine which applicants for the ERI will be allowed to participate and notify them within 1 month of the date of that application deadline.

6. Applicants who are allowed to participate must retire within 2 months of date of the notification that they may participate.

What must be included in the ERI Plan to be submitted to PERAC?

The CEO shall limit the total number of participating employees, with preference given to those with greater years of creditable service. The CEO shall have the authority to determine which eligible municipal employees may participate and to approve early

retirement benefits for each employee in order to avoid adverse impacts on municipal operations and services. The ERI Plan must include this information.

The ERI Plan may grant a combination of years and service not to exceed 3 total years, in full year increments. The CEO may establish a lesser amount. The allowances will be calculated pursuant to G.L. c. 32, § 5.

The plan submitted to PERAC must be accompanied by information demonstrating the value of the plan and any information requested by PERAC in order to allow it to evaluate the plan and confirm the analysis. This additional information shall include historical data upon which the plan is based, the total number of participants, the types of eligible employees, the salaries of participating employees, the benefits to be received and the limits on refilling vacated positions. In addition, the plan must include a certification that the present value cost of its plan is estimated to be less than the present value savings. PERAC may request additional information to evaluate the plan and confirm a cost analysis.

Which employees may be eligible to participate?

Subject to the limitations imposed in the plan by the CEO, in order to be eligible to participate, a municipal employee must be an active member of the applicable retirement system. He or she must have at least 20 years of creditable service. The employee's salary must be paid from an operating budget and not from federal, trust or other capital funds. In order to participate, the employee must forego the right to accrued sick and vacation time.

Can the Municipality fill the positions vacated by those who participate in the ERI?

In filling positions vacated by employees who participate in this ERI, the CEO shall be limited to paying compensation, contract and professional services in an amount that does not exceed 30% of the total annual salary of all participants in the program calculated as of their respective retirement dates in fiscal year 2011, 45% in fiscal year 2012, and 60% in fiscal year 2013.

How will the increased pension liability for an ERI be funded?

A municipality's increased pension liability resulting from participation the ERI shall be amortized over 10 years, starting in the next fiscal year after all participating employees

have retired, in equal installments, and shall be separately identified in the retirement system's pension funding schedule. The amount that would have been paid to the retirees for accrued sick and vacation time shall be paid into the retirement system to reduce the additional pension liability resulting from the ERI.

What annual reports must the CEO submit to PERAC?

The CEO of a municipality that establishes an ERI program under the Municipal Relief Act shall submit an annual report to PERAC, the Executive Office for Administration and Finance and the municipal legislative body. The report shall include the salaries and positions of participants, the amount of sick and vacation time being contributed by participants, the salaries and positions of those being hired as replacements and whether the positions of participants have been permanently eliminated.

If you have questions, please contact PERAC's General Counsel, Barbara Phillips at (617) 666-4446, Extension 902.

Attachment

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ATTACHMENT TO MUNICIPAL EARLY RETIREMENT INCENTIVE MEMORANDUM

(Section 66 of Chapter 188 of the Acts of 2010)

Section 66

(a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, a municipality which accepts this section may establish and implement an early retirement incentive program for its employees in accordance with this section.

(b) The chief executive officer of the municipality shall limit the total number of participating employees, with preference given to those with greater years of creditable service, and shall have the authority to determine which eligible municipal employees may participate and to approve early retirement benefits for each employee in order to avoid adverse impacts on municipal operations and services.

(c) In order to be eligible to participate in a program established under this section, in addition to any other requirements imposed by the municipality, an employee must be an active member of a municipal, regional or county retirement system with at least 20 years of service whose salary is paid from the operating budget and not from federal, trust or other capital funds.

(d) An employee who is eligible for the early retirement incentive program may request in an application for retirement that the retirement board credit the employee with an additional retirement benefit of a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 3 years, or a lesser amount established by the municipality, for the purposes of determining the employee's superannuation retirement allowance under paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws. Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of the employee's regular compensation as determined in accordance with said section 5 of said chapter 32. All participants shall forego the right to accrued sick and vacation time, and the amount that would have been paid to a retiree for accrued sick and vacation time shall be paid into the municipal, regional or county retirement system to reduce the additional pension liability resulting from this program.

(e) In filling positions which have been vacated by employees who participate in an early retirement incentive program under this section, the chief executive officer of the municipality shall be limited to paying compensation, contract and professional services in an amount that does not exceed the following percentage of the total annual salary of all participants in the program calculated as of their respective retirement dates: 30 per cent in fiscal year 2011, 45 per cent in fiscal year 2012 and 60 per cent in fiscal year 2013.

(f) A municipality that establishes an early retirement incentive program under this section shall provide the public employee retirement administration commission with information demonstrating the value of the plan and any information requested by the public employee retirement administration commission in order to allow it to evaluate the plan and confirm the

analysis, including historic data upon which the plan is based, the elements of the municipal plan including the total number of participants, the types of eligible employees, the salaries of participating employees, the benefits to be received and the limits on refilling vacated positions. In addition, the municipality shall certify to the public employee retirement administration commission that the present value cost of its plan is estimated to be less than the present value savings and provide the commission with all information it requests to evaluate the plan and confirm a cost analysis.

(g) In order to establish an early retirement incentive program under this section, a municipality shall:

(i) require the chief executive officer of a municipality that chooses to participate to submit its plan to the public employee retirement administration commission for approval within 2 months after the effective date of this act;

(ii) once the plan has been approved, submit to the legislative body of the municipality for acceptance not later than the next meeting of the legislative body at which the plan can practicably be submitted;

(iii) publish and make available to employees the approved plan within 1 month after its acceptance by the legislative body;

(iv) require employees to participate within 2 months of the plan's publication;

(v) determine which applicants shall be allowed to participate in the program and notify them within 1 month of the application deadline; and

(vi) require that participating employees retire within 2 months of notification of acceptance.

(h) The chief executive officer of a municipality that establishes a program under this section shall submit an annual report to the public employee retirement administration commission, the executive office for administration and finance and the municipal legislative body. The report shall include the salaries and positions of participants, the amount of sick and vacation time being contributed by participants, the salaries and positions of those being hired as replacements and whether the positions of participants have been permanently eliminated.

(i) A municipality's increased pension liability resulting from participation in a program established under this section shall be amortized over 10 years, starting in the next fiscal year after all participating employees retire, in equal installments, and shall be separately identified in the municipal, regional or county retirement system's pension funding schedule.

(j) For purposes of sections (a) to (i), inclusive, the powers and duties of the chief executive officer shall be vested in the manager of the municipal lighting plant for all matters affecting municipal lighting plant employees.