

PERAC PENSION NEWS

A publication of the Public Employee Retirement Administration Commission | March, 2004

LETTER FROM THE EXECUTIVE DIRECTOR



We're excited about making you a part of this new initiative, so please send in those e-mail addresses.

On behalf of the Commission, I am very pleased to announce the first edition of *PERAC Pension News*. It is a new publication that enables us to provide you with a regular update on public pension issues, PERAC activities, upcoming events, legislative activity, and recent legal decisions. Our goal is to bring a timely and helpful focus to the issues of the day. The public pension community in Massachusetts is an exceptionally hard working group that is confronted with a wide variety of difficult challenges. One of my most important objectives is to enhance communication within our community and to create opportunities to share the perspective of the Commission.

This first edition, which provides just a brief sampling of topics, is the only one that will be issued in hard copy. All subsequent editions will be transmitted via e-mail. However, if you wish to receive the *News*, but do not have e-mail, please advise us so that alternative arrangements can be made to fax or mail your issues. Please provide Sarah Kelly (Sarah.Kelly@state.ma.us) by March 15, 2004 with the e-mail

address(s) to which PERAC should send the next issue of *Pension News*.

I have asked Michael DeVito (Michael.J.DeVito@state.ma.us), PERAC's Director of Government & External Affairs, to serve as editor of *Pension News*. Please feel free to contact Mike with your comments, questions, and suggestions. As always, you can also contact me directly at (Joseph.Connarton@state.ma.us). We're excited about making you a part of this new initiative, so please send in those e-mail addresses.

Sincerely,

Joseph E. Connarton
Joseph E. Connarton
Executive Director

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Public Employee Retirement Administration Commission

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Joseph E. Connarton
Executive Director



PERAC SUCCESSFUL IN HIGH COURT CASE

The Supreme Judicial Court has affirmed the Commission's definition of earned income for the purposes of G.L. c. 32, § 91A in the case of *Boston Retirement Board v. CRAB and PERAC*, 803 N.E. 2d 325(2004). In a case involving the shareholder distributions of a closely-held corporation, the high court ruled that the Commission's definition of "earned income" was proper to utilize as opposed to the definition of "annual gross earned income" in G.L. c. 32, § 1. Justice Cowin wrote, "The fact that the Legislature chose not to employ a term it has recently defined indicates that 'earned income,' pursuant to § 91A, and '[a]nnual gross earned income' in § 1, are not one and the same." The Court further called the Commission's definition "a reasonable interpretation of the statute on its face, thereby suggesting that it is consistent

with legislative intent."

In rejecting the Boston Retirement Board's other arguments, the Court ruled that the Commission's memorandum was only intended to "clear up ambiguities and fill in gaps." Accordingly, it need not have been enacted as a formal regulation. The Court countered the Board's argument that the Commission could not reverse the local board's determination on excess earnings by declaring that the Commission's broad approval authority "necessarily implies the lesser power to 'disapprove' or 'reverse' a local retirement board's determination." Lastly, the unanimous tribunal ruled that the Commission's representative to CRAB properly participated at CRAB under the so-called rule of necessity.

Notice of Public Hearings for Proposed PERAC Regulation Amendments**

Tues., March 23, 2004, 2:00-3:00
Springfield State Office Building
436 Dwight Street
Courtroom 305, 3rd Floor
Springfield, MA

Thurs., March 25, 2004, 11:00-12:00
PERAC, 5 Middlesex Ave., 3rd Floor
Somerville, MA

Fri., March 26, 2004, 2:00-3:00
Plymouth Public Library, Main Library
Main Street, The Otto Fehlow Room
Plymouth, MA

Mon., March 29, 2004, 2:00-3:00
PERAC, 5 Middlesex Ave., 3rd Floor
Somerville, MA

****Written comment period
will remain open through
April 16, 2004**

PUBLIC PENSION ADVISORY GROUP (PPAG)

PPAG is a group appointed by PERAC's Executive Director to solicit input from major public pension systems throughout Massachusetts. This group meets periodically to discuss PERAC's initia-

tives, legislation, and other current major public pension issues in Massachusetts. The next meeting of the group will be on March 11, 2004 at 10:30 AM in the PERAC Board Room.

Please contact Kim Raynowska at 617-666-4446 ext. 906 if you would like to attend.

PENSION HOLIDAY

An option for deferral of a portion of pension costs in FY04 and/or FY05 was enacted in the Municipal Relief package, Chapter 46 Section 128 of the Acts of 2003. This deferral is commonly known as the "pension holiday". PERAC published Memo 26/2003 detailing this

subject. Eight cities and towns elected to use this option in FY04. A city or town may defer a portion of its pension appropriation for FY05, subject to several limits. First, the pension appropriation may not be less than the "normal cost" component of the funding

schedule. In addition, the deferral may not exceed the local aid reduction as defined under the law. Amounts to repay the deferral(s) will be reflected beginning with FY06. Acceptance by a city or town is subject to both PERAC and DOR approval.

ACTUARIAL STATISTICS FOR THE EARLY RETIREMENT INCENTIVE (ERI) PROGRAMS

The State adopted an Early Retirement Incentive (ERI) program in 1992, 2002 and 2003. In addition, local governmental units also had the ability to adopt an ERI program in the same

years. Costs associated with the State's 1992, 2002 and 2003 program, as well as the local 2002 program are presented below. Composite information about the 1992 local program is unavailable.

Approximately 150 units have accepted the 2003 local program, but the number of members retiring and cost information will not be available until later this year.

	2003 State ERI	2002 State ERI	1992 State ERI	2002 Local ERIs (285 units accepted)
Number Retired	3,075	4,575	3,568	3,318
Increase in Accrued Liability (AL)	\$227.6 M	\$312.1 M	\$208.4 M	\$230.5 M
Average Increase in AL Per Member	\$74,000	\$68,200	\$58,400	\$69,500