

PERAC Pension News

SPECIAL EDITION

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PERAC'S 2011 LEGISLATION HEARD BY THE JOINT COMMITTEE ON PUBLIC SERVICE

Strong support voiced for the Agency's legislative agenda



Left to right: Joint Committee on Public Service General Counsel and Research Director Patrick Charles; House Chair John W. Scibak; Senate Chair Katherine Clark; Jessica Leitz, Chief-of-Staff, Office of Senator Clark; Senate Vice Chair Jennifer F. Flanagan.

*By Michael DeVito
Director of Public Affairs*

On April 7, 2011 the Joint Committee on Public Service heard testimony on several pension reform bills at the State House. Deliberated at the hearing, along with Governor Deval Patrick's Pension Reform III bill (H. 35), were six bills filed by the Public Employee Retirement Administration Commission. Chief among these was H. 16, An Act Relative To Pension Governance. This bill has been filed by PERAC over several sessions and has advanced steadily through the legislative process. Last session, the bill's provisions passed the Senate on two separate occasions. The House failed to act on one of these efforts, S. 2377, before the session ended.

PERAC's Vice Chair, Massachusetts State Auditor Suzanne M. Bump, submitted testimony to the Public Service Committee indicating her full support for PERAC's pension governance bill, H.

16 and its duplicate bill, H. 1617, filed by Representative Jay Kaufman. Auditor Bump wrote:

While I am a strong supporter of our defined benefit pension plan for our public employees, I am equally supportive of reforms that will eliminate abuses in the system and enhance the solvency of the system... there are many thoughtful proposals before you which, if enacted, would eliminate abuses and enhance the solvency of the system. I am writing to you today on behalf of several of those proposals, particularly HB16, filed by PERAC, and HB1617, filed by Representative Kaufman. Those legislative proposals result from the 2005 PERAC Reform Initiatives Advisory Committee, chaired by Scott Harshbarger, that recommended a number of changes to the public pension system. For example, one of the recommendations is that PERAC have the ability to debar retirement board vendors who are convicted

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Chairman

The Honorable Suzanne M. Bump
Auditor of the Commonwealth

The Honorable Paul V. Doane
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James M. Machado
Sergeant
Fall River Police Department

Donald R. Marquis
Former Town Manager
Arlington

Robert B. McCarthy
Immediate Past President of the Professional Firefighters of Massachusetts

Gregory R. Mennis
Assistant Secretary, Finance and Infrastructure
Executive Office of Administration & Finance

Joseph E. Connarton
Executive Director

Michael DeVito
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of criminal offenses, such as bribery. Other significant recommendations would require that retirement boards use a competitive bidding process to award professional services contracts, and would mandate that all retirement board members file Statements of Financial Interest. These proposals, encompassed in HB 16 and HB 1617, have my full support.

proposed pension reforms this session, The Commission feels that this is a bill whose time has come. Its passage would be a major step forward in retirement board governance in Massachusetts. In the spirit of pension reform that the General Court has shown this year, we sincerely hope that this proposal, which strengthens governance for the very boards that

double damages for violations of competitive process and disclosure requirements.

In the area of governance practices, H. 16 would:

(1) Establish an explicit open and competitive procurement process to be followed by boards when soliciting investment, actuarial, legal or accounting services.

(2) Require board members to file statements of financial interests.

(3) Prohibit vendors, contractors, employees or others receiving remuneration from a retirement board or anyone doing business with a retirement board from serving on a retirement board.

(4) Require board members to submit a sworn statement that, to the best of their knowledge, any proposal made as part of a competitive process is submitted in good faith and without collusion and fraud; and,

(5) Mandate relevant education for board members.

PERAC Commissioner James M. Machado testified that public confidence in the ability of the pension system to perform its tasks is of central importance. He further noted that the bills filed by PERAC will provide tools to heighten that confidence.

Alan G. Macdonald, Executive Director of the Massachusetts Business Roundtable, cited his experience as a member of the PERAC Advisory Committee, which examined PERAC's ability to execute its statutory mandate and the governance structure of the state's 105 retirement boards. This Committee, which was chaired by former Massachusetts Attorney General Scott Harshbarger, included professors from Harvard University's Kennedy School of Government and the Harvard Business School as well as the Chief Investment Officer of the Boston Foundation who had previously been Chief Investment Officer of the Massachusetts Pension Reserves Investment Trust (PRIM), the Commonwealth's largest public pension fund.

Mr. Macdonald stressed that the ability to discipline boards that engage in official



Senator Kenneth J. Donnelly.

Senator Kenneth J. Donnelly testified in support of H. 16. Senator Donnelly, a former long-serving PERAC Commissioner, currently serves as Senate Chairman of the Joint Committee on State Administration and Regulatory Oversight.



PERAC's panel: Alan G. Macdonald, Executive Director, Massachusetts Business Roundtable; Executive Director Joseph E. Connarton; Commissioner James M. Machado.

PERAC Panel Testifies in Support of H. 16

Leading off the testimony for PERAC at the hearing was Executive Director Joseph E. Connarton who commented on the importance of H. 16 and its synergy with other

are entrusted with executing other pension reforms that may be enacted, will be approved and signed into law.

Mr. Connarton highlighted some of H. 16's provisions. In the area of transparency, H. 16 would:

(1) Authorize PERAC to debar firms from doing business with Massachusetts retirement systems if the firm has been convicted of a crime involving public

contracts; has been found to supply false information in an effort to obtain a contract; has submitted an inaccurate disclosure statement to the Commission or a board; or has failed to disclose to a board or the Commission compensation provided to any person involved in attempting to obtain a public contract. This would enable the Commission to proceed against firms which have violated these provisions not only in Massachusetts but elsewhere in the United States.

(2) Codify disclosure requirements mandating that all vendors annually inform the Commission and the board of any compensa-

tion arrangements to be received or to be paid in relation to the services provided as well as to annually disclose any conflicts of interest that may exist.

(3) Require vendors to submit a sworn statement that a good faith proposal has been made without collusion or fraud; and,

(4) Establish civil penalties, including

misconduct is vitally important. In his opinion, the ability to debar a firm that commits illegal activities either in Massachusetts or elsewhere is a key provision of the bill.

Other PERAC Bills

Executive Director Connarton also commented on H. 20 and H. 21, two new PERAC legislative submissions for 2011-2012.

H. 20 would provide a waiver from filing annual statements of earned income for disability retirees who have been retired for 20 years and not reported any earned income for 10 years. If they subsequently earn income, such retirees would be required to notify PERAC and resume filing statements. PERAC would continue to monitor their earned income, if any, through the Commission's wage match program with the Massachusetts Department of Revenue. PERAC's Fraud Prevention Unit has estimated that as many as 2,220 individuals may qualify for the exemption.

H. 21 would broaden the options of Massachusetts communities and other government entities to invest funds appropriated for Other Post Employment Benefits (OPEB). Under current statute, in most communities that have established such funds, the local Treasurer is the custodian of these funds and charged with investing them. H. 21 provides the additional options of investing through entities that may possess more extensive investment experience: the State's Health Care Security Trust (HCST) or the retirement board of record.

Strong Organizational Support for PERAC's Legislation

Massachusetts Retiree's Association, MACRS and the MTA support H. 16

Mr. Ralph White, President of the Massachusetts Retired State, County and Municipal Employees Association of Massachusetts, who also serves as Legislative Chairman of the Massachusetts Association of Contributory Retirement Systems (MACRS) and Mr. Shawn Duhamel, Legislative Liaison of the Retirees' Association (also representing MACRS) testified in favor of H. 16 and



Shawn Duhamel of the Retired State, County and Municipal Employees Association of Massachusetts; Ralph White, President.



J. Coleman Walsh of the Massachusetts Association of Contributory Retirement Systems; Dennis Devine, President.

PERAC's governance reform bills in general. The MACRS Executive Board had previously voted unanimously to support PERAC's governance bills.

Mr. Duhamel also testified in support of H. 21, PERAC's OPEB investment bill on behalf of the Retirees' Association.

Massachusetts Teachers Association Supports H. 16

In a letter from Sean King, Legislative Agent for the Massachusetts Teachers Association (MTA), submitted to the Committee on April 7, 2011, the MTA also expressed its support for H. 16. Mr. King wrote:

This bill attempts to strengthen the governance and secure the viability of the state's retirement systems. Among its reforms, House 16 would permit PERAC to debar individuals and firms in certain cases of illegal activity, institute manda-

tory competitive bidding requirements, require financial disclosure of retirement board members and mandate appropriate continuing education for all board members...These are meaningful and deserved reforms.

NAGE Supports H. 19

Ray McGrath, representing the National Association of Government Employees, expressed support for PERAC's H. 19, An Act Relative to Retirement Board Membership.

The objective of this bill is to eliminate real or perceived advantages to retirement board members who would seek to provide services to other boards. This bill would preclude any board member who is receiving remuneration from a Massachusetts retirement board or from a service provider to a Massachusetts retirement board from serving on the related retirement board(s). Retirement board employees may serve on boards other than that by which they are employed.

William Farmer Comments on H. 16 and H. 19

William R. Farmer, Executive Director of the Plymouth County Retirement Board and a member of the Brockton Retirement board, who testified as an individual and not as a representative of these retirement boards, offered comments on certain aspects of PERAC's bills. He emphasized that the debarment provisions as written in H. 16 would apply only to local systems and not the Pension Reserves Investment Management Board (PRIM). He believes that the provisions should also apply to PRIM to prevent the Board from utilizing firms debarred for locals.

(Editor's Note: The investment and fund management policies adopted by PRIM are not subject to any rules and regulations promulgated by PERAC to govern the investment of funds by the retirement boards. This express prohibition appears in Chapter 32, §22(2A)(h).)

Mr. Farmer also opposed the grandfathering provision in H.19.

GOVERNOR DEVAL PATRICK'S PENSION REFORM III BILL HEARD Public Service Committee Grets Governor for Testimony on H. 35

On April 7, 2011 the Joint Committee on Public Service also heard testimony on H. 35, Governor Deval Patrick's Pension Reform III legislation: An Act Providing for Additional Pension Reform and Benefits Modernization. Governor Deval Patrick testified in support of his bill.

Also testifying at the hearing were Treasurer and Receiver-General of the Commonwealth Steven Grossman; from Administration and Finance: Secretary Jay Gonzalez; Assistant Secretary for Finance and Infrastructure Gregory Mennis and Deputy General Counsel Janet Fogel.

Governor Deval Patrick



Massachusetts State Treasurer Steven Grossman

Left to right from Administration and Finance: Deputy General Counsel Janet Fogel; PERAC Commissioner and Assistant Secretary for Finance and Infrastructure Gregory Mennis; Secretary Jay Gonzalez.



PERAC'S EXECUTIVE DIRECTOR THANKS THE JOINT COMMITTEE ON PUBLIC SERVICE AND SUPPORTERS OF PERAC'S LEGISLATION

PERAC's Executive Director Joseph E. Connarton thanked the Joint Committee on Public Service for its courtesy and also thanked the organizations that supported PERAC's legislation,

I want to thank Chairwoman Clark and Chairman Scibak and the members of the Public Service Committee for their courtesy to the PERAC panel at the April 7 Committee hearing. As always, the Committee's and its staff's receptiveness and consideration are most appreciated.

I also want to thank Auditor

Suzanne M. Bump and Senator Kenneth Donnelly for their support; Commissioner James Machado and Massachusetts Business Roundtable Executive Director Alan Macdonald for appearing on our behalf; President Ralph White and Shawn Duhamel of the Massachusetts Retirees' Association; MACRS President Denis Devine; and the MTA's Legislative Agent Sean King for their support of H.16. The Retiree's Association and MACRS worked tirelessly with PERAC to fashion a legislative proposal that would provide moderate,

measured and reasonable reform while still being sensitive to the needs of these organizations' members. We feel we have met those objectives with H. 16.

I also want to thank Ray McGrath and the National Association of Government Employees (NAGE) for their support of H. 19.

The support of these individuals and organizations is most gratifying and should have a material and positive impact on the success of these bills.

INVESTMENT REGULATION HEARING SCHEDULE

The Public Employee Retirement Administration Commission (PERAC) has adopted Draft Regulations which make major changes to the regulation of the investment, book-keeping and procurement activities of the retirement systems.

The goal of the Commission is to incorporate into regulation guidelines adopted over the last 12 years such as Hedge Fund Guidelines, Placement Agent Policy, Mandate Modification, and Use of Futures and Options. In addition, we are updating our regulatory approach in light of changes to the market place that have taken place and delineated procurement requirements for solicitation of services by retirement boards. The proposal also eliminates outdated regulations.

The Commission has scheduled a series of public hearings across the Commonwealth

in order to receive comment from affected parties as well as the public prior to the preparation of final regulations. In addition, the Written Comment Period will be open until July 1, 2011.

Hearings will take place as follows:

Friday, May 20, 2011
1:00 pm to 4:00 pm
PERAC, Suite 304, 5 Middlesex Ave.
Somerville MA

Tuesday, May 24, 2011
1:00 pm to 4:00 pm
PERAC, Suite 304, 5 Middlesex Ave.,
Somerville, MA

Wednesday, May 25, 2011
1:00 pm to 4:00 pm
Fall River Police Department
685 Pleasant Street, Fall River, MA

Thursday, June 2, 2011
9:30 am to 12:30 pm
West Springfield Municipal Office Building
26 Central Street, Second Floor
West Springfield, MA

Monday, June 6, 2011
3:30 pm to 5:00 pm (time is tentative)
MACRS Conference
Resort and Conference Center
35 Scudder Avenue
Hyannis, MA

Copies of the Draft Regulations as well as a summary are available on the Home Page of the PERAC Web Site (www.mass.gov/perac). In addition, copies may be obtained by contacting our offices.