April 2, 2012: How Chapter 176 of the Acts of 2011 Affects Those Who Became Members Prior to that Date

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Massachusetts Association for Contributory Retirement Systems

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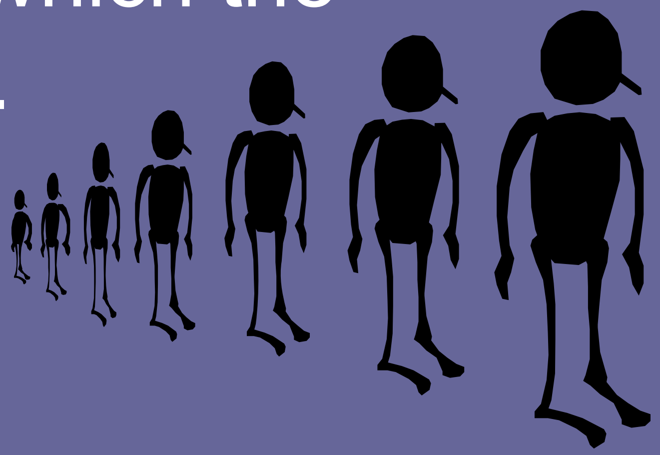
Group Classification

- A person who became a member on or before April 2, 2012 and seeks a Group 2 or Group 4 classification and is an *inactive* public employee at the time of the member's retirement shall be classified based on the position from which the member was last employed.



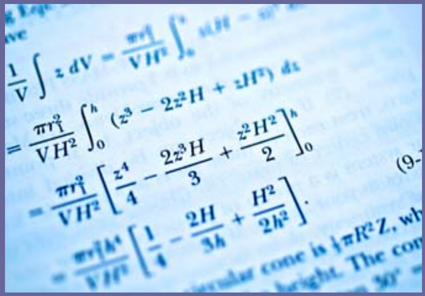
C. 176, Section 14

Group Classification for Present Members

- A member entering service prior to April 2, 2012 must be *actively* employed in a Group 2 or Group 4 position for not less than 12 consecutive months in order to qualify for the retirement allowance calculation of the desired group.

C. 176, Section 8

Group Classification



- Those who were members prior to April 2, 2012 may also voluntarily choose to have their retirement allowance which is calculated under Section 5 based on their service in different groups pro-rated “in a manner prescribed by the commission.”
- PERAC Memorandum #29 of 2012 explains the methodology.
- For those becoming members on April 2, 2012 and thereafter, such proration is mandatory.

C. 176, Section 14

Anti-Spiking: The First Provision

- If a member seeks to retire under Section 5 and was a member prior to April 2, 2012, his or her allowance will still be based upon the three-year average, except:

- It shall be based on a five-year average if the difference in the rate of regular compensation between any two of the last five consecutive years immediately preceding retirement exceeds 100 percent.

C. 176, Section 14

Anti-Spiking: The Second Provision

- By its terms, applicable only to members retiring on or after April 2, 2012.
- Calculations shall not include regular compensation that exceeds the average of the two preceding years’ regular compensation by more than 10 %.
- Members prior to April 2, 2012 still have their retirement allowance based upon a three year average, but the retirement board must now look at the last five years to conduct this analysis.
- Some exceptions, particularly “from a modification in the salary or salary schedule negotiated for bargaining unit members under Chapter 150E” and “bona fide change in position” apply to this.

C. 176, Section 18

Anti-Spiking: The Second Provision

- If a member has had deductions withheld which are excluded from regular compensation under this provision, the money "shall be returned to the member with interest at the *assumed actuarial rate*." (Emphasis supplied.)

C. 176, Section 18

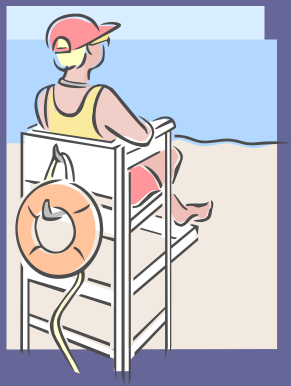
Buybacks of Refunded Time Upon Re-entry or Reinstatement

- Tim Garrison was a member of the State Retirement System from 1986 to 2007.
- Withdrew his funds upon terminating service.
- Re-employed with Essex effective April 9, 2012.
- Must pay back refunded amounts by April 9, 2013 or enter into an installment agreement, not to exceed five years, by April 9, 2013 to buy back such funds in order to pay buyback interest on the purchase.
- If he doesn't meet this deadline, he must pay actuarial assumed interest.
- Tim will also have all the rights of a member who joined the system on or after April 2, 2012.
- See PERAC Memo #23 of 2012.

C. 176, Section 9

Buybacks of Section 3 Time Upon Becoming a Member

- Jake Samson had prior non-membership service as a lifeguard in Dukes when she joins the Essex Retirement System on April 9, 2012.
- She has until April 2, 2013 to purchase this time using buyback interest.
- People buying back non-membership time between April 2, 2012 and April 2, 2013, or entering into a contract to buy it back in that time frame, may use buyback interest, but after April 2, 2013 all prior non-membership purchases will be at the actuarial assumed interest rate.
- See PERAC Memo #23 of 2012.



C. 176, Section 9

Buybacks of Section 3 Time Upon Becoming a Member

- Kim Henne had prior non-membership service as a leaf blower operator in Montague when she joins the Essex Retirement System on March 29, 2013.
- She has only until April 2, 2013 to either buy back the time or enter into an installment agreement to purchase this time using buyback interest.
- See PERAC Memo #23 of 2012

Buybacks of Section 3 Time After April 2, 2013

- Jerry Quinn has prior non-membership service in the town of Montague when she becomes a member of the Essex Retirement System on May 14, 2013.
- Whenever he buys this time back, he must pay actuarial assumed interest.
- People purchasing non-membership time under Section 3 after April 2, 2013 will be charged the actuarial assumed interest rate.

C. 176, Section 9

Subsection 5(1)(g) The No Longer Forgotten Subsection

- For many years, Section 5(1)(g) offered an enviable non-interest repayment regarding certain post-retirement employment.
- Limited by its terms to those retirees elected to public office or appointed to a position for a term of years by certain officials, including the governor, a mayor or a board of selectmen.
- As of April 2, 2012, purchases under Section 5(1)(g) will be purchased with buyback interest, “and shall satisfy the requirements for reinstatement under subsection (a) of Section 105.”

C. 176, Section 12

Forfeiture of Pension

- Applicable to current members, new members, in short anyone *retiring* “on or after April 2, 2012.”
- If a member is subject to a forfeiture under Section 15, the forfeiture will be effective as of the date of the offense.
- The system will have to recoup all benefits paid after that date.

C. 176, Section 31

Members Retiring On or After April 2, 2012

- Elected officials may not return to an elected office after retirement and avoid the earnings limitations of Section 91 if:
  1) They retired from an elected office, and
  2) Less than a year has passed since they last held elective office.
- The statute refers to “said” public elected office, meaning that this prohibition on returning to an elected office goes only to the elected office from which a person actually retired.

C. 176, Section 49

Increase in Retiree's Ability to Earn in the Public Sector Post-Retirement

- A retiree working in the public sector post-retirement may now earn $15,000 a year in addition to the difference between the salary from which he retired and the pension being paid.
  - Exception: This extra $15,000 may not be earned in the first 12 months following retirement.
  - Exception: Disability retirees will be able to earn only an additional $5,000 per year in accord with G.L. c. 32, Section 91A when they work in the public sector post-retirement, the same amount that they may earn in the private sector.
- A superannuation retiree's earnings in the private sector, or in the public sector of a state other than Massachusetts are not subject to any restrictions.

C. 176, Section 50

Those Already Receiving the Minimum Allowance

- Nancy Pippen's spouse was a member of the Essex Retirement System. He died three years ago, way before April 2, 2012. She receives the minimum allowance pursuant to G.L. c. 32, Section 12(2)(d). Will her allowance be raised to $500?
  - If the local option is accepted by Essex, yes. Once the local option is accepted, all minimum allowance recipients in a system are raised to $500 per month.
  - After the local option is accepted, all individuals who are eligible for the minimum allowance going forward will get $500 per month.

C. 176, Sections 29 & 30

Eligibility for the Minimum Allowance

- Only those eligible for the minimum allowance receive this increase.
- Those ineligible to receive the minimum allowance, including those who remarried prior to the removal of the remarriage penalty in 2000, remain ineligible.

C. 176, Sections 29 & 30