

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT

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DEVAL L. PATRICK  
GOVERNOR

ATTACHMENT E

July 12, 2013

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 21 of House Bill No. 3538, "An Act Making Appropriations for the Fiscal Year 2014 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 21 adds two new members to the Public Employee Retirement Administration Commission, one appointed by the Speaker and one by the Senate President, both to be representatives of large county, city or town retirement systems (with assets over \$500 Million). Although I do not object to expanding the size of the commission, I have been advised that it would be unconstitutional to have members of the Legislature appoint members of a board that exercises executive powers. In addition, I am concerned about adding two members of large local retirement systems to a board that monitors and audits these systems.

In order to address these concerns, I recommend that Section 21 be amended to change the appointing authority for the new members and to provide that one of the members be a member of the Teachers' Retirement System.

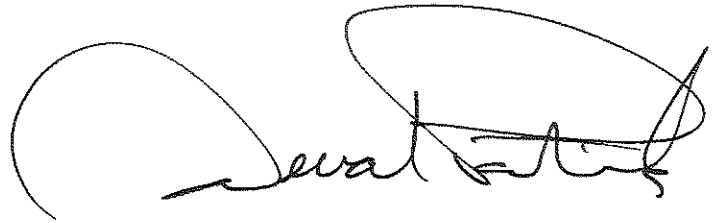
For these reasons, I recommend that Section 21 be amended by striking out the text and inserting in place thereof the following text:-

SECTION 21. Section 49 of chapter 7 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be within the executive office for administration and finance, but not subject to its control, a public employee retirement administration commission consisting of 9 members, 5 of whom shall be appointed by the governor, 3 of whom shall be appointed by the state auditor, and 1 of whom shall be chosen by the first 8 members and who shall be chairperson. Of the 5 persons appointed by the governor, 1 shall be the governor or his designee, 1 shall be a representative of a public safety union, 1 shall be qualified by having training and experience in the investment of funds as a result of having been principally employed in such occupation for a period of at least 10 years, 1 shall be a representative of a county, city or town contributory retirement system with assets above \$500,000,000 at the time of appointment, and 1 shall be a member of the teachers' retirement system. Of the 3 persons appointed by the state auditor, 1 shall be the state auditor or his designee, 1 shall be the president of the Massachusetts AFL-CIO or his designee, and 1 shall be a representative of the Massachusetts Municipal Association. Each member of the commission shall serve for a term of 5 years, but in making initial appointments, the governor shall appoint 2 members for a term of 3 years and 2 members for a term of 4 years, and the state auditor shall appoint 1 member for a term of 3 years and 1 member for a term of 4 years. The members shall serve without compensation but shall receive their necessary expenses incurred in the discharge of their official duties. Upon the expiration of the term of an appointed member, or the chairperson, or a vacancy otherwise created in those positions, the successor for the position shall be appointed in the same manner specified above, or for the remainder of the term, whichever is applicable. If the representative of a public safety union or the designee of the president of the Massachusetts AFL-CIO is a public employee, he or she shall be granted leave, without loss of pay or benefits and without being required to make up lost time, if on duty, for regularly scheduled work hours while in the

performance of responsibilities of the commission. The public employee retirement administration commission shall select an executive director, and enter into an employment contract with the director. Sections 9A, 45, 46, and 46C of chapter 30, chapter 31, and chapter 150E shall not apply to the executive director or any other employee of the commission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Seval" followed by a stylized flourish.