ATTACHMENT S

July 28, 2022

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 of the Commonwealth of Massachusetts, I am returning to you for amendment Section 134 of House Bill No. 5050, “An Act Making Appropriations for the Fiscal Year 2023 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 134 allows local retirement systems to opt into a higher cost of living adjustment (COLA) for their retirees than is normally the case. Generally, under current law, PERAC informs local retirement boards of the COLA for the year, which is related to a Social Security calculation, and is capped at 3%. Local retirement systems have the option to apply that COLA to the base amount of retirees’ pensions; base amounts vary by system but are generally in the range of $13,000 to $18,000. Following a year where the raw Social Security inflation measure was over 5%, the statute as proposed would allow local retirement systems to increase the COLA to as much as 5%.

While recognizing inflation has been a challenge for retirees on fixed incomes, I have two concerns with this section. First, as enacted, this section would leave the decision to increase the COLA to a retirement board, but it is the participating municipalities and other entities that bear the cost of that decision. Accordingly, my amendment proposes that municipal governments make this decision.

Second, the application of the COLA applies ambiguously. It appears that it has been discussed as applying to the base amount, but the section as enacted does not do so. Obviously, the implications for pension liabilities are much greater if the COLA applies to entire pensions and not just the base. I am reluctant to leave such an important distinction so unclear.

For these reasons, I recommend that the bill be amended by striking out Section 134 and inserting in place thereof the following section:-

SECTION 134. (a) (1) Notwithstanding section 103 of chapter 32 of the General Laws or any other general or special law to the contrary, the retirement board of any system that has accepted said section 103 may elect to establish a cost-of-living adjustment increase of not less than 3 per cent and not greater than5 per cent on the base amount provided for in said section 103 for fiscal year 2023.

(2) The sum of the dollar amount of the cost-of-living increase on the base amount, together with the amount of retirement allowance, pension or annuity to which the cost-of-living increase is applied, shall become the fixed retirement allowance, pension or annuity for all future purposes, including the application of subsequent cost-of-living adjustments in future years.

(b) A retirement board may grant a cost-of-living increase of not less than 3 percent and not greater than 5 per cent on the base amount for fiscal year 2023 at any time during the fiscal year.

(c) This section shall take effect for the members of a retirement system by a majority vote of the board of such system and upon local acceptance of the city council upon recommendation of the mayor in a city, of the chief executive officer as defined in section 7 of chapter 4 of the General Laws in a town, of the county commissioners in a county and in a district or other political subdivision of the commonwealth by vote of the governing board, commission or committee. For any retirement system comprising more than 1 political subdivision of the commonwealth, this section shall be effective by a majority vote of the board of such system and upon the acceptance of two-thirds of cities and towns within the system by approval of the city council upon recommendation of the mayor in a city and the chief executive officer as defined in section7 of chapter 4 of the General Laws in a town.

And further recommend that the bill be amended by inserting after section 186 the following section:-

SECTION 186A. Section 134 shall take effect on July 1, 2022.

Respectfully submitted,

Charles D. Baker

Governor