

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

**ROBERT BENDER,
Petitioner-Appellant,**

v.

**STATE BOARD OF RETIREMENT,
Respondent-Appellee.**

CR-20-0279

ORDER OF REMAND TO DALA

On March 3, 2023, petitioner Robert Bender appealed a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA) affirming respondent State Board of Retirement's (SBR) decision to apply the anti-spiking provision in the calculation of his retirement allowance pursuant to G.L. c. 32, § 5(2)(f). While this matter was pending before the Contributory Retirement Appeal Board (CRAB), Chapter 141 of the Acts of 2024, An Act Relative to Salary Range Transparency (the "Salary Transparency Act"), was enacted on July 31, 2024. Section 3 of the Salary Transparency Act amended §5(2)(f), which now states in pertinent part as follows:

This paragraph shall not apply to an increase in the annual rate of regular compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, from a modification in the salary or salary schedule negotiated for bargaining unit members under chapter 150E, from an increase in salary for a member whose salary amount is specified by law, from a bona fide increase in salary related to eliminating wage differentials as required pursuant to section 105A of Chapter 149 or from an employer's systemic wage adjustments...(Emphasis added).

The Act denoted that Section 3 would take effect on July 1, 2018. Acts of 2024, Chapter 141, Section 12. This Act promulgated the Public Employee Retirement Administration Commission (PERAC) to issue PERAC Memo # 21/2024. Accordingly, this case is remanded to DALA for

consideration of the Salary Transparency Act and PERAC Memo #21/2024 as it relates to the part of the DALA decision addressing the anti-spiking provision. On remand, additional evidence and argument shall be received either at the request of one of the parties or in the discretion of the administrative magistrate to whom the case is assigned.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

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Date: October 30, 2024