



Memorandum # 14/2006

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
Five Middlesex Avenue, Third Floor, Somerville, MA 02145
Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | www.mass.gov/perac
Domenic. J. F. Russo, *Chairman* | A. Joseph DeNucci, *Vice Chairman*
Henry G. Brauer | Kenneth J. Donnelly | James M. Machado | Donald R. Marquis | Thomas Trimarco
Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Disability Retirement Benefits for Veterans, Chapter 157 of the Acts of 2005

DATE: February 14, 2006

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit. Chapter 157 of the Acts of 2005 became effective on November 23, 2005. Since the passage of this provision, Retirement Boards and members have asked a number of questions. This Memorandum is intended to respond to those inquires.

The Definition of a Veteran under Sections 1 and 2 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. Section 1 is subject to acceptance by both the Retirement Board and local legislative body. The definition of a "veteran" set forth in G.L. c. 4 § 7 cl. 43 as amended by Chapter 166 of the Acts of 2004, and explained in PERAC Memo #21/2004, will be used to determine a retiree's eligibility under Chapter 157 of the Acts of 2005. *If a retiree is a veteran under the current definition of G.L. c. 4 § 7 cl. 43, the retiree is entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

Section 2 of Chapter 157 of the Acts of 2005 makes the allowance retroactive to a retiree's date of retirement. Section 2 is subject to acceptance by both the Retirement Board and local legislative body. If Section 2 is accepted, payments will be retroactive to the date of retirement for living retirees only. *If a retiree was a veteran under the definition of G.L. c. 4 § 7 cl. 43 in effect at the time of retirement, the retiree is entitled to a Section 2 allowance under Chapter 157 of the Acts of 2005.*

MEMORANDUM - Page Two

TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: Disability Retirement Benefits for Veterans, Chapter 157 of the Acts of 2005
DATE: February 14, 2006

Notifying a Retiree of his or her Potential Allowance under Chapter 157 of the Acts of 2005

Upon acceptance of either or both sections of Chapter 157 of the Acts of 2005, the Retirement Board must notify each accidental disability retiree of a potential allowance as a veteran under Chapter 157 of the Acts of 2005. As accidental disability retirees who are veterans are not necessarily identified at their retirement, the duty is on the Retirement Board to send applications to all living accidental disability retirees to determine veteran eligibility under Section 1 or Sections 1 and 2 of Chapter 157 of the Acts of 2005. The enclosed two applications can be used to expedite this process. If Section 2 is accepted by both the Retirement Board and the legislative body, a retiree's application for the allowance must be made within 120 days from local acceptance. The Retirement Board will make payment within one year after receipt of the Section 2 application either in a lump sum or in installments.

- If the Retirement Board and legislative body have accepted BOTH Sections 1 and 2 of Chapter 157 of the Acts of 2005, the Retirement Board must send each accidental disability retiree the application for Section 1 and 2.
- If the Retirement Board and legislative body have accepted ONLY Section 1 of Chapter 157 of the Acts of 2005, the Retirement Board must send each accidental disability retiree ONLY the application for Section 1.
- If the Retirement Board and legislative body have not accepted either section of Chapter 157 of the Acts of 2005, the Retirement Board should send NO applications to accidental disability retirees.

Determining a Retiree's Eligibility as a Veteran under Chapter 157 of the Acts of 2005

The Retirement Board should request a DD-214 form from retirees who believe they are eligible for allowances under either section of Chapter 157 of the Acts of 2005. If a retiree has served in the United States Military during or prior to World War II and does not have a DD-214 form, the Retirement Board should request, from the retiree, any and all copies of official documents verifying his/her service in the United States Military. The Retirement Board should determine the eligibility of a retiree's status as a veteran based upon proper review of these documents. The Retirement Board's local veteran's agent may be of assistance in making this determination.

MEMORANDUM - Page Three

TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: Disability Retirement Benefits for Veterans, Chapter 157 of the Acts of 2005
DATE: February 14, 2006

Allowances are Taxable and there is no Worker's Compensation Offset under Chapter 157 of the Acts of 2005

Under the legal advice of tax counsel, Ice Miller LLP, the Commission has determined that an allowance under Chapter 157 of the Acts of 2005 is taxable under federal laws, and that the IRS would conclude that an allowance under Chapter 157 of the Acts of 2005 is not a benefit in the nature of workers' compensation, and thus, is a taxable benefit. The reason for this conclusion is that an allowance under Chapter 157 of the Acts of 2005 is calculated entirely based upon a member's years of service not a member's accidental disability.

Cost of Living Adjustments (COLA) under Chapter 157 of the Acts of 2005

The Commission has determined that an allowance made under Section 2 of Chapter 157 of the Acts of 2005 is a single payment calculated from the date of retirement and not a retroactive increase. Allowances made under Section 2 of Chapter 157 of the Acts of 2005 are not subject to COLA readjustment. Retirement Boards are not to recalculate and apply a COLA to the member's allowance prior to the enactment of Chapter 157 of the Acts of 2005. Going forward, the allowance payable under Chapter 157 of the Acts of 2005 will be a part of the COLA base.

Notice to the Commission regarding Chapter 157 of the Acts of 2005

A Retirement Board must send a letter of notice to the Commission within 120 days after the Retirement Board and legislative body take their vote(s). The notice should include the section(s) the Retirement Board has accepted or declined, whether the legislative body has accepted the vote(s) of the Retirement Board and copies of the minutes of the vote(s) of the Retirement Board and the legislative body.

We trust the foregoing is of assistance. IF you have any additional questions or concerns, please contact this office.

Enclosures

**APPLICATION FOR AN ALLOWANCE UNDER SECTION 1 OF CHAPTER 157 OF THE ACTS OF 2005
FOR VETERANS WHO ARE ACCIDENTAL DISABILITY RETIREES**

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit.

The Definition of a Veteran under Section 1 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. *If you are an accidental disability retiree who is veteran you may be entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

Determining Eligibility as a Veteran under Chapter 157 of the Acts of 2005

Please send a DD-214 form along with the enclosed application to determine if you are eligible for an allowance under Section 1 of Chapter 157 of the Acts of 2005. If you served in the United States Military during or prior to World War II and do not have a DD-214 form, please send copies of any and all official documents verifying your service in the United States Military. The Retirement Board will determine your status as a veteran based upon proper review of these documents.

Please complete this application and send it along with your official DD-214 form or other official documentation of your veteran status to your Retirement Board to determine if you are a veteran who is eligible for this benefit.

Name: _____

Social Security Number: _____

Home Address: _____

Telephone Number: _____

Date of Retirement: _____

Are you a Veteran? Yes No

I have enclosed a copy of my official DD-214 form or other official proof of my service in the United States Military along with this application.

Signature: _____

Date: _____

APPLICATION FOR AN ALLOWANCE UNDER SECTION 1 AND 2 OF CHAPTER 157 OF THE ACTS OF 2005 FOR VETERANS WHO ARE ACCIDENTAL DISABILITY RETIREES

On November 22, 2005, the Governor signed Chapter 157 of the Acts of 2005, an Act that provides Section 7 accidental disability retirees with a veteran's benefit.

The Definition of a Veteran under Section 1 of Chapter 157 of the Acts of 2005

Section 1 of Chapter 157 of the Acts of 2005 states that any member of Group 1 or Group 2 or Group 4 who retires due to an accidental disability who is a veteran will receive an additional yearly retirement allowance of \$15 for each year of creditable service or a fraction thereof, and the total amount of this additional yearly retirement allowance will not exceed \$300. *If you are an accidental disability retiree who is veteran you may be entitled to a Section 1 allowance under Chapter 157 of the Acts of 2005.*

The Definition of a Veteran under Section 2 of Chapter 157 of the Acts of 2005

Section 2 of Chapter 157 of the Acts of 2005 makes the allowance retroactive to a retiree's date of retirement. Payments will be retroactive to the date of retirement for ***living retirees only***. A retiree's application for the allowance must be made within 120 days from local acceptance. The Retirement Board will make payment within one year after receipt of Section 2 application either in a lump sum or in installments. *If you are an accidental disability retiree who was a veteran you may be entitled to a Section 2 allowance under Chapter 157 of the Acts of 2005.*

Determining Eligibility as a Veteran under Chapter 157 of the Acts of 2005

Please send a DD-214 form along with the enclosed application to determine if you are eligible for an allowance under Section 2 of Chapter 157 of the Acts of 2005. If you served in the United States Military during or prior to World War II and do not have a DD-214 form, please send copies of any and all official documents verifying your service in the United States Military. The Retirement Board will determine your status as a veteran based upon proper review of these documents.

Please complete this application and send it along with your official DD-214 form or other official documentation of your veteran status to your Retirement Board to determine if you are a veteran who is eligible for this benefit.

Name: _____

Social Security Number: _____

Home Address: _____

Telephone Number: _____

Date of Retirement: _____

Are you a Veteran? Yes No

I have enclosed a copy of my official DD-214 form or other official proof of my service in the United States Military along with this application.

Signature: _____ Date: _____

YOU MUST SEND THIS APPLICATION TO YOUR RETIREMENT BOARD BY THIS DATE:

FAILING TO SEND YOUR APPLICATION TO YOUR RETIREMENT BOARD BY THE ABOVE DATE MAY FORFEIT YOUR RIGHT TO AN ALLOWANCE UNDER SECTION 2 CHAPTER 157 OF THE ACTS OF 2005