

# FUNCTIONING DURING THE STATE OF EMERGENCY

Public Employee Retirement Administration Commission  
Webinar | May 5, 2020



# INTRODUCTORY REMARKS

**John W. Parsons, Esq. Executive Director**



# **SIGNATURES DURING COVID-19**

**Judith Corrigan, General Counsel  
Katie Brady, Associate General Counsel**



# Part I: How The Boards Do Business

- ▶ Meeting minutes
- ▶ Warrants
- ▶ Annual Statements

# Board Member Signatures on Warrants and Meeting Minutes

- ▶ The Board can adopt a policy relative to meeting minutes and warrants that, after they have been reviewed by the Board, the Board authorizes the Executive Director or the Chair to sign on behalf of the other Board members.
- ▶ The Board should document everything including the adoption of the policy and the review of each document.
- ▶ Regarding warrant approval, the Executive Director should ask each Board member to send an email indicating their approval.
- ▶ Alternatively, the Board can implement the use of DocuSign for signing warrants and meeting minutes.

# Annual Statements

- ▶ PERAC Memorandum #17 of 2020
- ▶ “Boards are authorized to submit unsigned statements, and subsequently to submit the minutes reflecting the board members’ adoption of the statement.”
- ▶ PERAC will seek a traditional signed Annual Statement when normalcy returns to the monthly meeting process.

# DocuSign

- ▶ We have received a lot of questions regarding the use of electronic signatures and programs like DocuSign.
- ▶ DocuSign provides an e-signature service where recipients of a document open the document on an internet-enabled device and sign electronically where necessary.
- ▶ DocuSign is a free service, however DocuSign charges for premium features like signer authentication.

## Part II: Questions Regarding Forms

- ▶ Electronic Signatures
- ▶ Beneficiary Forms
- ▶ Annual Affidavit



# Are Electronic Signatures Acceptable?

- ▶ Acceptance of Electronic Signatures is assessed on a form by form basis.
- ▶ A signature has historically been interpreted by PERAC to mean an original hand written signature or “wet” signature, and therefore **not** an e-signature or a scanned submission of a document with an original signature.

# A Word About:

## ▶ Beneficiary Forms

- These forms are on the uptick because of a pandemic.
- These are the forms needing the most protections, as the member is no longer around to testify as to what he or she intended.

# Witness Signatures

- ▶ CRAB has held beneficiary forms invalid where the forms have not been witnessed.
  - *Fritz-Elliot v. State Board of Retirement*, CR-14-368 (CRAB 2016)
  - *Carlton v. State Board of Retirement*, CR-13-478 (CRAB 2018)
- ▶ The absence of a valid witness signature renders the beneficiary designation without effect.

## 15.01 Affidavit of Retired Members and Beneficiaries

- (1) No less frequently than once every two years, each retirement board shall require each member or beneficiary who receives a pension, retirement allowance, or survivor's allowance to file with the retirement board an affidavit under the penalties of perjury, at such time and in such form as the board shall prescribe...

## Two Suggested Approaches

- ▶ Chapter 71 of the Acts of 2020 “An Act providing for virtual notarization to address challenges related to COVID-19” effective April 28, 2020.
- ▶ Use other methods to determine status of member or beneficiary; delay sending out affidavits during the State of Emergency.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# **OPEN MEETING LAW**

*Governor's March 12, 2020 Executive Order*

**Patrick Charles, Senior Associate General Counsel**



# Meetings

- ▶ Meetings must still be posted publicly at least 48 hours in advance.
- ▶ Should be posted on the Board's website and/or the municipalities website.
- ▶ Posting should still contain everything that was previously required such as date, time and list of topics.
- ▶ Must include method of participation.



# Remote Participation

- ▶ Normally a quorum, as well as the chair, must be physically present at the meeting location.
- ▶ This provision of the Open Meeting Law has been suspended.
- ▶ All members of a public body may participate remotely without the usual quorum requirements.
- ▶ Must ensure that the public has access to bodies deliberations via accessible methods.

# Accommodating the Public

- ▶ Must provide access to the public.
- ▶ This can be through telephone, internet, or satellite enabled audio or video conferencing.
- ▶ If public participation is part of the meeting process then provisions must be implemented for this to continue.
- ▶ For required participants (subject of hearing or disability) public body must provide the same access to participant as if they were a member of the public body.

# Executive Session

- ▶ Executive sessions can still be held for the same reasons as would normally apply.
- ▶ The members of the Board and anyone required to participate should use a separate call in or video conference for the executive session.
- ▶ Anyone required to participate in the executive session should have the same access as the members of the Board.

## **Executive Session *(Continued)***

- ▶ Board should announce that they are going into executive session and leave the public meeting.
- ▶ Following the executive session board members should rejoin public meeting and continue or adjourn.

# Minutes and Record

- ▶ Minutes of the meeting and any executive session must still be kept in the same manner as they would be for a non-virtual public meeting.
- ▶ The provisions of the public records law have not been suspended.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# COVID-19 STATE OF EMERGENCY

**Kate Hogan, Manager of Medical Services  
Kenneth Hill, Sr. Associate General Counsel**



# COVID-19 State of Emergency

*COVID-19 has hugely impacted all of us.*

- ▶ Since the State of Emergency was announced PERAC's Disability Unit had to cancel appointments from March and April and now into May.
- ▶ Somewhere between 120-170 examinations were cancelled.
- ▶ Disability staff contacted the applicants via phone and Board's through PROSPER.



# Examinations During this State of Emergency

- ▶ In order to keep the medical panel examination process moving and attempting to decrease any COVID-19 impact on disability retirement applications, PERAC has agreed to allow for Telemedical (or Teleconferencing) of an examination.
- ▶ To go forward with this examination, all parties that have the right to attend the exam must agree to the Telemedical exam.

# Waivers

- ▶ **In order to document this agreement, all Parties must provide a waiver to PERAC.**
- ▶ **Three** Waivers will need to be provided:
  - Applicant
  - Retirement Board
  - Employer
- ▶ Waivers can be filled in from our website or from the e-mail provided to the retirement boards last week.
- ▶ Retirement Boards are to obtain the employer waiver and submit this with the Board waiver (as 2 separate documents please).

# Waiver Forms

**PERAC**  
COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION  
Philip F. Brignone, Esq., Chairman  
Auditor: Suzanne M. Ruff | Kathleen M. Fallon | Kate Fitzpatrick | James M. Machado | Robert B. McCarthy | Jennifer F. Sullivan

**MEMORANDUM**

NAME OF APPLICANT: \_\_\_\_\_  
 FROM: Disability Unit/PERAC  
 RE: Waiver of Applicant Attendance at Medical Panel Examination During COVID-19 Pandemic  
 DATE: \_\_\_\_\_

The Public Employee Retirement Administration Commission (PERAC) has received a Request for Appointment of a Regional Medical Panel for the above-named applicant for disability retirement.

During the COVID-19 pandemic, PERAC Executive Director John Parsons, Esq., has agreed to allow this office to arrange for a review of medical records and teleconference by the medical panel physicians assigned by this office rather than have the applicant actually attend the examinations.

Since this is an unusual set of circumstances, the retirement board, employer and applicant need to approve the review of medical records and teleconference exam in place of the physical examination that would be scheduled for the above-named applicant in this instance. Should any of the parties entitled to attend a medical panel appointment fail to waive their right to attend, this teleconference examination will not be scheduled and medical panel appointments for a physical examination will be scheduled for the applicant at a time when it is deemed safe to proceed with in-person examinations.

Please sign below and return to this office via the following email address: [KHogan@perstate.ma.us](mailto:KHogan@perstate.ma.us)

I agree to the appointment of medical panel review of medical records and teleconference regarding this applicant for disability retirement in this instance.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

200 PRESIDENT AVENUE, SUITE 201 | SOMERVILLE, MA 02145  
PH 617-866-4496 | FAX 617-428-4882 | TTY 617-291-8907 | WWW.PUBLICGOVPERAC

**APPLICANT**

**PERAC**  
COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION  
Philip F. Brignone, Esq., Chairman  
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I agree to the appointment of medical panel review of medical records and teleconference regarding this applicant for disability retirement in this instance.

\_\_\_\_\_  
Employer Signature

\_\_\_\_\_  
Date

200 PRESIDENT AVENUE, SUITE 201 | SOMERVILLE, MA 02145  
PH 617-866-4496 | FAX 617-428-4882 | TTY 617-291-8907 | WWW.PUBLICGOVPERAC

**EMPLOYER**

**PERAC**  
COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION  
Philip F. Brignone, Esq., Chairman  
Auditor: Suzanne M. Ruff | Kathleen M. Fallon | Kate Fitzpatrick | James M. Machado | Robert B. McCarthy | Jennifer F. Sullivan

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I agree to the appointment of medical panel review of medical records and teleconference regarding this applicant for disability retirement in this instance.

\_\_\_\_\_  
Retirement Board Signature

\_\_\_\_\_  
Date

200 PRESIDENT AVENUE, SUITE 201 | SOMERVILLE, MA 02145  
PH 617-866-4496 | FAX 617-428-4882 | TTY 617-291-8907 | WWW.PUBLICGOVPERAC

**RETIREMENT BOARD**

# Waiver's Submission

- ▶ The forms are fillable and can be e-mailed to me. Upon receipt of all the waivers, I will contact our vendors and obtain the appointment information.
- ▶ Appointments will be scheduled in PROSPER.

# Examination Information

- ▶ What technology is needed to do this?
- ▶ Applicant must have a computer and e-mail address to get and complete the waiver.
- ▶ Applicant must have a phone/laptop/tablet with camera capability in order to attend exam.
- ▶ The appointment will be scheduled in PROSPER so that medical records will be available to the vendor/physician immediately.
- ▶ The vendor will contact the applicant prior to exam to go through the technical process.

# The Telemedicine (Teleconference) Exam

- ▶ What will the exam entail?
- ▶ Applicant will need to provide identification and show the physician at the time the exam starts.
- ▶ The physician will be on screen and speaking and seeing the applicant and vice versa.
- ▶ The physician will have the applicant doing the same kind of movements that they would at a regular exam.
- ▶ The physician will obtain the history from the applicant, they have the medical records previously provided through PROSPER.
- ▶ The physician will not have the ability to have hands on, but they are still required to maintain medical standards of an examination as directed by the Board of Registration in Medicine.

# The Certificate and Narrative Report

- ▶ The physician will complete the certificate and narrative as usual and upload to PROSPER.
- ▶ The findings will undergo the same PERAC QA review and go to the Retirement Board via PROSPER.
- ▶ **If the physician does not feel that this method of exam is sufficient for them to make a determination, they will contact PERAC and the applicant will be rescheduled when it is deemed safe to continue in person examinations.**

# Most Frequently Asked Question

- ▶ What if someone does not agree to the exam?  
Be it the applicant, Board and employer.
- ▶ **This is strictly voluntary. If any of the parties does not agree, the applicant will remain in the scheduling queue until it is deemed safe to have an in person examination.**
- ▶ I would ask any Retirement Board staff that know of any party that will not be providing a waiver, please let me know via my e-mail and I will notify the applicant.



# Priorities

- ▶ Currently our priority right now is to re-schedule the exams that were cancelled.
- ▶ We are scheduling separate exams.
- ▶ PERAC will also conduct record reviews during this time, however they will only be considered as a last resort measure and this would need some discussion between PERAC and the Board. Contact me via e-mail if we need to discuss individual applicants.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# **BOARD FUNDING, VALUATIONS AND BENEFIT CALCULATIONS**

**John Boorack, Actuary**



# PERAC Memo #20/2020 (Page 2)

## Retirement Calculations

As we have indicated in our prior CV-19 memos, PERAC does not have the ability to process retirement calculations remotely, due to limitations in accessing software and security precautions. We continue to encourage boards to make estimated payments to new retirees, at least during this challenging period. Due to concerns relative to new retirees going an extended period without a retirement check, PERAC calculations staff this week completed and mailed out all retirement calculations in our possession, through mid-March. (This does not include applications where we have requested additional information from a board). For those boards that continue to submit calculations, if you could indicate whether you are making estimated payments, this would allow us to prioritize calculations.

months, the hours and earnings from this period will not be included in the 2020 limitations, you would only look at the hours and earnings from the other 9 months. PERAC will publish guidance to boards and municipalities providing the law's text and further detail.

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### Annual Statements

With the extension of the Governor's declaration relative to essential services from April 7, 2020 until May 4, 2020, PERAC is revisiting the issue of the filing deadline. While we do not have the ability to waive or change the filing deadline, PERAC is hereby granting a 30-day extension to every retirement board, effectively adjusting the filing deadline to June 1, 2020. We encourage boards to continue to submit the Statement as soon as it is completed. Please see PERAC Memo #17 relative to a discussion of board member signatures in conjunction with the Annual Statement.

### Medical Panels

As of the issuance of PERAC Memorandum #17, PERAC had suspended the scheduling of medical panels due to CDC health guidance and the large number of cancellations. With the specter of this difficulty continuing into May if not longer, PERAC is relaxing its requirements relative to in-person medical examinations. Pursuant to this memo, with the agreement of a member, retirement board, employer, and the medical panel, examinations may take place by records review or teleconferencing. As is currently done when an examination is done based on records only, each party will need to sign a waiver indicating their assent to the alternative process. This accommodation will allow members' examinations to move forward at a time when municipalities are paying workers compensation or 111F payments on behalf of these members or a member may be in deteriorating health. If a member being scheduled assents to an alternative review, PERAC will then reach out to the retirement board/employer as to their assent. Please email Kate Hogan if you have questions relative to this process.

### Paid Sick Leave under new Federal Law

As you are likely aware, Congress recently passed the Families First Coronavirus Response Act ("FFCRA"). This law contains provisions for 10 days of paid sick leave for full-time employees unable to work due to the coronavirus. PERAC has determined that this paid leave should be treated the same as an employee's other paid sick leave, and regular compensation should be

# PERAC Memo #22/2020

PERAC MEMO #22/2020

## PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

PAUL P. BROWNE, Esq., Chairman | JOHN W. PARSONS, Esq., Executive Director

ANDREW GOODMAN, Esq., Deputy | CATHERINE M. FALLON | KATE FITZPATRICK | JAMES P. FRACARO | ROBERT R. MCGARTHY | JONAS K. SULLIVAN

### MEMORANDUM

TO: All Retirement Boards  
FROM: John W. Parsons, Esq., Executive Director  
RE: Delayed FY21 Appropriations  
DATE: April 27, 2020

PERAC has received several inquiries recently regarding appropriation payments due in FY21 in light of the ongoing COVID-19 pandemic. As a result of the pandemic, there is concern that some municipalities will be unable to approve a timely budget for FY21, and that tax payments from residents will be delayed, resulting in at least a temporary reduction in available FY21 funding. The questions received deal with either waiving interest for appropriation payments made after the scheduled payment date, or allowing units to receive the full "discount" they would otherwise have received had the scheduled appropriation been made timely. The "discount" refers to an interest adjustment for units who are scheduled to make payments in equal installments during the year (e.g. July 1 and January 1) but make a reduced appropriation payment in a lump sum earlier during the fiscal year.

Chapter 53 of the Acts of 2020 provides relief to municipalities dealing with the budget complications cited above, providing them additional time to adopt their FY21 budgets, granting them authority to delay the receipt of tax and other payments otherwise due, and authorizing expenditures based on FY20 appropriation figures until their FY21 budget is adopted. Clearly, the intent of Chapter 53 is to provide municipalities short-term relief in adopting their FY21 budgets and meeting their fiscal demands in the interim.

Chapter 32 is silent on the issue of adjusting, with interest, appropriation payments made on a date different from the payment date assumed in a board's current funding schedule and/or set in statute. While PERAC has historically advocated that interest be included when payments are made on dates different from the assumed payment date of the funding schedule, this is ultimately a board decision. Given the provisions of Chapter 53 above and

appropriations

Chapter 32, PERAC believes that municipal and state units should have the authority to award interest discounts and/or receive payments received on a different date than originally approved. It is anticipated that unfunded actuarial liability (UAL) will be accounted for in the future.

Member units make appropriation payments to the retirement system. They should collaborate with member units to find a solution that satisfies all affected parties while ensuring that payments are made. We encourage all involved that a solution be reached expeditiously, as an administrative solution will allow for the issue to be addressed in both a timely manner and one that is consistent with the law.

If you have any questions, do not hesitate to contact PERAC at (617) 725-2000.

# PERAC Memo #22/2020: Delayed FY21 Appropriations

PERAC has received several inquiries recently regarding appropriation payments due in FY21 in light of the ongoing COVID-19 pandemic. As a result of the pandemic, there is concern that some municipalities will be unable to approve a timely budget for FY21, and that tax payments from residents will be delayed, resulting in at least a temporary reduction in available FY21 funding. The questions received deal with either waiving interest for appropriation payments made after the scheduled payment date, or allowing units to receive the full “discount” they would otherwise have received had the scheduled appropriation been made timely. The “discount” refers to an interest adjustment for units who are scheduled to make payments in equal installments during the year (e.g. July 1 and January 1) but make a reduced appropriation payment in a lump sum earlier during the fiscal year.

## **PERAC Memo #22/2020 *(Continued)***

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## **PERAC Memo #22/2020 *(Continued)***

Chapter 32 is silent on the issue of adjusting, with interest, appropriation payments made on a date different from the payment date assumed in a board's current funding schedule and/or set in statute. While PERAC has historically advocated that interest be included when payments are made on dates different from the assumed payment date of the funding schedule, this is ultimately a board decision. Given the provisions of Chapter 53 above and the lack of interest provisions in Chapter 32, PERAC believes that municipal and county/regional retirement systems have the authority to award interest discounts and/or waive interest charges for payments received on a different date than originally approved. It should be noted that any change in unfunded actuarial liability (UAL) will be accounted for when the next schedule is determined.



## **PERAC Memo #22/2020 *(Continued)***

The primary concern is that member units make appropriation payments to the retirement system. As such, retirement boards should collaborate with member units to find a solution that is mutually beneficial to all affected parties while ensuring that payments are made. We believe that it is in the best interest of all involved that a solution be reached administratively as opposed to legislatively, as an administrative solution will allow for each system and its member units to address the matter in both a timely manner and one unique to their needs.

We trust the foregoing is of assistance. If you have any questions, do not hesitate to contact PERAC's Actuary, John Boorack.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# PERAC STATUTORY DEADLINES

John W. Parsons, Esq. Executive Director



# Annual Statements

## ▶ Memorandum 20 of 2020

- Automatic extension for all systems —  
May 1<sup>st</sup> to June 1<sup>st</sup>
- No need to request this extension from PERAC
- Effect on Annual Report

# Statement of Financial Interests

- ▶ Deadline is May 1<sup>st</sup>
- ▶ Board members submit electronically
- ▶ Delayed enforcement

# Board Member Education

- ▶ Enhanced online opportunities
- ▶ Affidavit submitted thru PROSPER

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# **POST-RETIREMENT PUBLIC SECTOR WORK RELIEF DURING STATE OF EMERGENCY**

**Bill Keefe, Assistant Deputy of Research, Planning, & Public Affairs**  
**Sandra King, Fraud Prevention Manager**





# Post-Retirement Public Sector Work Relief During State of Emergency

- [Section 14 of Chapter 53 of the Acts of 2020](#) allows public sector superannuation retirees to work in the public sector during the Governor's declared state of emergency without regard to the normal statutory limitations on earnings and hours worked. [PERAC Memo 21/2020](#) provided guidance on this measure.
  - This action was taken in response to municipal requests for such flexibility in order to address potential workforce needs due to the pandemic.
  - It applies to all job functions, not just health-related or public safety functions.
  - It **does not** apply to disability retirees.
  - It **does not** allow public safety employees to work past the maximum age as an active employee.

# Post-Retirement Public Sector Work Relief During State of Emergency *(Continued)*

- Basically, a superannuation retiree will not count earnings or hours worked during the emergency. Other earnings and hours in 2020 will apply against the normal statutory limits spelled out in [Chapter 32, Section 91](#), which remain in effect outside of the emergency period.
  - The state of emergency started on March 10 with [Executive Order 591](#) and ends with the Governor's written declaration that the emergency is over.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

**2019 91A**

**Sandra King, Fraud Prevention Manager**



# 91A Deadlines

- ▶ The 91A Filing Deadline has been extended to July 15<sup>th</sup>.
- ▶ The new deadline to file the Annual Statements of Earned Income is now July 15, 2020, to correspond with the Internal Revenue Service's filing deadline.
- ▶ You do not need to contact this office to request the July extension.
- ▶ If you have completed your statement already, you may file it now by mail.
- ▶ Our office is currently closed and we are not able to accept in-person submissions.

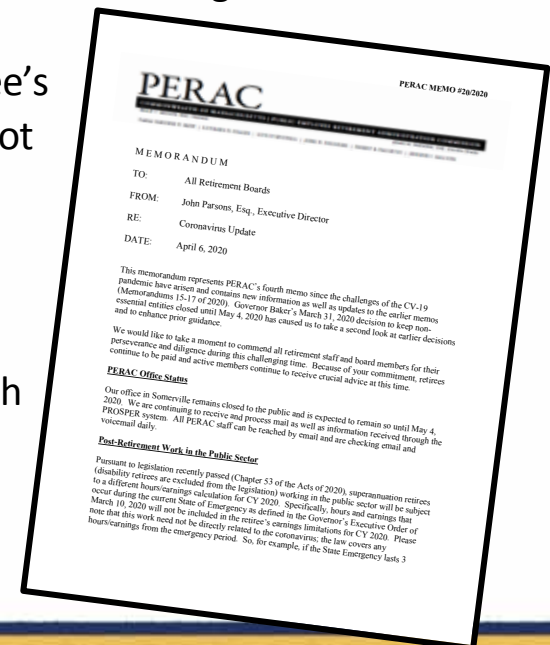
## Business as Usual at PERAC (Well, Kinda)

- ▶ Mail is being received and processed daily by staff.
- ▶ PROSPER is still up and running (quite well 😊). So boards can still update a deceased member and upload the death certificate or check the status of one of your members.
- ▶ There are no changes in how much an **ADR/ORD** can earn or how many hours they can work, post retirement. 91A limits still apply.
- ▶ Email is the best way for members or board staff to contact me: **SEKING@per.state.ma.us**.

# PERAC Memo #20/2020

## PERAC Memo #20 to All Boards

- ▶ <https://www.mass.gov/memorandum/20-coronavirus-update>
  - **In part: Post-Retirement Work in the Public Sector**
  - Pursuant to legislation recently passed (Chapter 53 of the Acts of 2020), superannuation retirees (disability retirees are excluded from the legislation) working in the public sector will be subject to a different hours/earnings calculation for CY 2020. Specifically, hours and earnings that occur during the current State of Emergency as defined in the Governor's Executive Order of March 10, 2020 will not be included in the retiree's earnings limitations for CY 2020. Please note that this work need not be directly related to the coronavirus; the law covers any hours/earnings from the emergency period. So, for example, if the State Emergency lasts 3 months, the hours and earnings from this period will not be included in the 2020 limitations, you would only look at the hours and earnings from the other 9 months. PERAC will publish guidance to boards and municipalities providing the law's text and further detail.



# PERAC Memo #21/2020

## PERAC Memo #21: to All Boards and Municipal Offices

▶ <https://www.mass.gov/memorandum/21-post-retirement-restrictions-during-the-state-of-emergency>

- **Post Retirement Restrictions during the State of Emergency**

PERAC Memo # 21 / 2020

**PERAC**  
COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYER RETIREMENT ADMINISTRATION COMMISSION

MEMORANDUM TO THE BOARD | 100 STATE STREET, SUITE 1000, BOSTON, MA 02109 | TEL: 617-725-2000 | FAX: 617-725-2001

MEMORANDUM

TO: All Retirement Boards  
State, County and Municipal Officials

FROM: John W. Parsons, Esq., Executive Director

RE: Post Retirement Restrictions During the State of Emergency

DATE: April 13, 2020

Pursuant to Chapter 53 of the Acts of 2020, earnings and hours restrictions for retired public employees working in the public sector have been temporarily adjusted for the period of the Governor's State of Emergency, which began on March 10, 2020. The provisions addressing this temporary change appear below:

SECTION 14. (a) Notwithstanding any general or special law to the contrary, subsections (b) and (c) of section 91 of chapter 32 of the General Laws shall not apply in calendar year 2020 to the following 2 categories of persons for hours worked and earnings received during the governor's March 10, 2020 state of emergency:

(i) any person who has been retired and who is receiving a pension or retirement allowance, pursuant to said chapter 32 or any other general or special law, from the commonwealth or a county, city, town, district or authority; or

(ii) any person whose employment in the service of the commonwealth or a county, city, town, district or authority has been terminated, pursuant to said chapter 32 or any other general or special law, by reason of having attained an age specified in said general or special law or by the rules and regulations of any department or agency of the commonwealth or a county, city, town,



# Frequently Asked Questions



## 1. I haven't filed my taxes yet; can I have an extension?

- Yes, please make sure your members know the deadline has been extended.

## 2. I'm only filing 2019 taxes to get the Stimulus check. Do I still need to send PERAC a copy, and what if I already filled out the 91A form and mailed it?

- Yes, please send PERAC a copy of your 2019 taxes regardless of why you are filing, and even if you already submitted your 2019 91A form. A new amended 91A form does not need to be submitted.

## 3. Can I apply for and receive unemployment benefits?

- Yes, unemployment benefits will not affect your public pension, since they are unearned.
  - *Pursuant to 840 CMR 10.16(4), earned income is defined as implying some labor, management, or supervision in production thereof. Based on this definition, neither unemployment compensation or Covid 19 relief money would be considered earnings from earned income as the receipt of these payments is not dependent on a retiree's labor, management, or supervision.*

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***

# RETIREMENT BOARD ELECTIONS DURING THE COVID-19 PANDEMIC

Kenneth Hill, Sr. Associate General Counsel



# Retirement Board Composition

1. Ex Officio Member
2. Appointed Member
- 3. Elected Member**
- 4. Elected Member**
5. Board Appointed Member

# 840 CMR 7.00

## Standard Rules for Elections

- ▶ Rules regarding election procedures
- ▶ Contains deadlines for the minimum/maximum number of days to perform certain procedures.
  - **7.03:** Notice of election must be provided no less than 90 days prior to the election
  - **7.04:** Nomination papers must be made available at least 90 days prior to the election
  - **7.04:** Completed nomination papers must be provided to the board at least 45 days prior to the election
  - **7.13:** In the event a vacancy exists, boards must hold an election within 120 days of vacancy

# Covid-19 Pandemic

- ▶ Since the State of Emergency was declared on March 10, 2020, many retirement boards have been unable to safely comply with the election regulations.
- ▶ PERAC has provided advice to numerous retirement boards so affected.

# PERAC Memo #17/2020

- ▶ In PERAC Memo #17/2020, issued on March 23, 2020, PERAC advised the boards that the Legislature was expected to generally address the issue of elections in the near future.
- ▶ At the time, PERAC did not know whether the Legislature intended to extend such Legislation to retirement board elections.
- ▶ “Boards should weigh the realities of gathering signatures, closed board offices, etc. prior to initiating an election, and for ongoing elections, the board may need to consider expanding deadlines within the election cycle to address current limitations.”
- ▶ Pursuant to Chapter 32, s. 20, and other similar provisions, a board member is eligible to serve “until the qualification of the member’s successor.”

# Recent Legislation

- ▶ No Legislation specifically mentions retirement board elections, but some of the measures can provide guidance.
- ▶ Municipalities were authorized to delay their elections in Chapter 45 of the Acts of 2020 until June 30. And in Section 4, the criteria for utilizing an absentee ballot was expanded to include the current pandemic.
- ▶ Further, the SJC ruled to cut in half the number of signatures of registered voters needed to qualify for the September 1 primary ballot, relaxed restrictions on the signatures being in ink, and pushed back by a week the date state and county candidates have to turn in signatures to town clerks.



# PERAC's General Advice

- ▶ Most boards affected by the pandemic should **postpone their election**.
  - Early in the pandemic, PERAC advised that Boards should notify their members and retirees via all electronic means at their disposal (board website, city/town website, email, etc...).
  - Boards may issue an Amended Notice of Election with specific future dates.
- ▶ Pursuant to G.L. c. 32, s. 20 and 840 CMR 7.13, an elected board member **continues to serve until the qualification of his or her successor**.
- ▶ For public safety reasons, PERAC recommends that all upcoming new elections **should be conducted entirely by mail**.

## Specific Instances

- ▶ Several boards are at different stages of the election process.
- ▶ The following is PERAC's advice regarding specific scenarios.
- ▶ For all scenarios, the incumbent elected board member, particularly if they intend to run for re-election, should not participate in any discussion or vote that concerns postponing the election.

# Election More Than 90 Days Away

- ▶ For upcoming elections that are still more than 90 days away, the board likely has not sent out notice of the election.
- ▶ In that event, the board can choose either to wait to send out notice of the election upon the lifting of the state of emergency (wherein the date of election must be at least 90 days away), or
- ▶ Send out notice of the election now, wherein the date of election must be at least 90 days beyond May 18, 2020.
  - **Note:** Given that it is unknown whether the current shelter in place advisory will extend beyond May 18, 2020, PERAC recommends that the boards choose an election date well in excess of 90 days beyond May 18, 2020.
- ▶ Regardless of when the notice of the election is sent, the board should inform the membership that the election will occur entirely by mail, should the board follow PERAC's recommendations to conduct the election in this manner.

# Notice Was Sent, But Nomination Period Was Open On March 10<sup>th</sup>

- ▶ For elections where notice was sent, but the timeline for nominations was open as of March 10, 2020, the board should either:
  - Notify the membership that the election is indefinitely postponed, or
  - Send the membership an amended notice of the election, wherein the date of election must be at least 90 days after May 18, 2020.
    - **Note:** Given that it is unknown whether the state of emergency will extend beyond May 18, 2020, PERAC recommends that the boards choose an election date well in excess of 90 days beyond May 18, 2020.
- ▶ For either choice, the board should alert the membership that the election will occur entirely by mail, should the board accept PERAC's recommendation to hold the election in this manner.
- ▶ Current elected board member will continue to serve until the qualification of his/her successor.

## Notice Sent, But Nomination Period Was Closed On March 10<sup>th</sup>

- ▶ For elections where notice of the election was sent, but the timeline for nominations was closed as of March 10, 2020.
  - The board should notify the membership that the election has been postponed (to a date in excess of 90 days from May 18), and
  - Provide the names of the candidates, and
  - Inform the membership that the election will occur entirely by mail, should the board accept PERAC's recommendation, and
  - Mail ballots to the membership at least 21 days prior to the election.
- ▶ Current elected board member will continue to serve until the qualification of his/her successor.

## Notice Was Sent, and Only One Candidate Qualified

- ▶ For elections where notice was sent, the timeline for nominations closed as of March 10, 2020, and only one candidate qualified:
  - The board shall declare said candidate to be the elected member of the board.
  - No election shall be held.
  - Said candidate shall take office and serve in all respects as though he or she had been elected by election.

## Reminder Of Process When Election Held Exclusively By Mail

- ▶ All active, inactive and retired members of the system must be sent a ballot to their last known address.
- ▶ Ballot must be sent at least 21 days prior to election date.
- ▶ Must be accompanied with a return envelope that must include a space where the voter must sign his or her name and provide address.
  - Indicates that ballot inside is from qualified voter.
  - Board may choose to pre-stamp the return envelopes.

# Precautions

- ▶ Members should not sign the ballot.
- ▶ To ensure that voter cannot be identified, the board may:
  - Include a second, smaller blank inside envelope where ballot will be placed.
  - Sealed inside ballot envelope (which contains no identifying information) is then placed inside the signed outside envelope.
  - Upon receipt, outside envelope is used to verify the voter, and then separated from inside envelope.
  - On Election Day, all the inside envelopes are opened.



# Pre-Addressed Return Envelope

Member Name

Member Address

Member Signature: \_\_\_\_\_

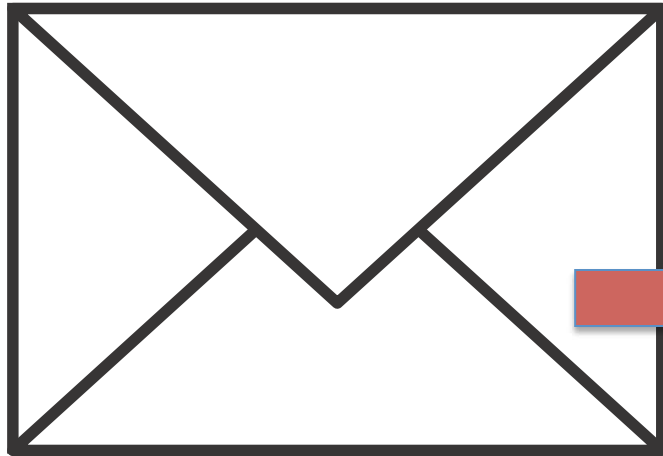


Example Retirement Board

Town Hall

Example, MA 11111

# Inside Ballot Envelope



## INSIDE BALLOT ENVELOPE

**THIS ENVELOPE PROTECTS THE SECRECY OF YOUR VOTE.**  
It will be removed from the return envelope and will be mixed with other inside ballot envelopes before it is opened. **No one will know how you voted.**

Place your completed ballot inside the envelope, seal it and place it inside the pre-addressed return envelope for mailing.

# Alternate Precautions

- ▶ Or, the size of the ballot should be such that it must be folded in order to be placed into the identifying return envelope.
  - Prevents anyone opening the ballot envelope from immediately identifying the voter.
- ▶ These envelopes should be verified when they arrive but not opened until Election Day.
- ▶ All envelopes should be opened and ballots separated before tabulation.

# Disqualified Ballots

- ▶ Generally, ballots disqualified if:
  - Ballot envelope contains no signature or address.
  - Ballots not returned in envelope provided.
  - Ballots not able to be verified as being submitted by a member in service, an inactive member or a retiree.
  - Ballots of member, inactive member or retiree voting more than once.
  - Ballots received after deadline.
  - Ballots contain identifying data of voter.
  - Ballots contain a vote for more than one candidate.
  - Ballots defaced such that choice of candidate is unknown.

# Conclusion

- ▶ It is best practice to postpone elections.
- ▶ For public safety reasons, PERAC recommends that all upcoming elections should be conducted entirely by mail.
- ▶ Keep in mind, that incumbent elected members continue to serve until the qualification of his or her successor.

# Questions?

- ▶ If you have any questions, please use the chat box located on your screen



***Thank You!***