

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: The Buyback of Call Firefighter Time

DATE: December 13, 2016

On June 21, 2013, the Contributory Retirement Appeal Board (“CRAB”) issued a decision, *MacAloney v. Worcester Regional Ret. System and Public Employee Ret. Admin. Comm'n*, CR-11-19 (CRAB 2013) regarding call firefighters which has an effect on the implementation of G.L. c. 32, § 4(2)(b) by retirement boards as of the date of the decision. PERAC issued Memoranda # 22/2013, #33/2013, and #19/2014 to provide guidance to retirement boards as a result of the decision. Since the Memoranda were issued, CRAB has recently decided two cases concerning the method of buybacks and the granting of creditable service pursuant to G. L. c. 32, § 4(2)(b). These two cases attached for your reference, *Grimes v. Malden Ret. Bd. & PERAC*, CR-15-5 (CRAB 2016) and *Gomes v. Plymouth Ret. Bd. & PERAC*, CR-14-127 (CRAB 2016). All previous memoranda on this issue are superseded by this Memorandum.

For purposes of this Memorandum, please note that reserve or permanent-intermittent police officers, and reserve or permanent-intermittent firefighters are impacted in the same fashion as call firefighters.

A. Calculating a buy back for a permanent firefighter who served as a call firefighter.

When a call firefighter subsequently is appointed as a permanent member of the same municipality’s fire department and was on a respective list or roster making the call firefighter eligible and available for such duties. The methodology for buying back such service is as follows:

1. Uncompensated Service

Pursuant to the provisions of G. L. c. 32, § 4(2)(b), a permanent firefighter can receive up to 5 years of creditable service at no cost either for the time they served as a call firefighter, or for the time he or she was on the respective list and/or roster making him or her eligible for such duty as long as no compensation was paid to the firefighter, because no deductions would have been made for this unpaid service.



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2. Compensated Service

For a call firefighter who received compensation for such service, he or she would pay the retirement contribution that would have been made on such pay received at the rate that was in effect for the year(s) the service was provided with buyback interest. For example, a call firefighter who was compensated for the years 1995-1997, would pay 8% on the pay received in 1995 through June 30, 1996. They would pay 9% on the pay received after July 1, 1996.

3. Both Compensated and Uncompensated Service

In a scenario where a call firefighter has a full calendar year in the five year period in which he or she provides no service or was uncompensated for such service, that call firefighter would receive the service for that calendar year at no cost to the member.

In the case where a call firefighter has been compensated for some service within the five year period, he or she would pay the retirement contribution that would have been made on such pay received at the rate that was in effect for the calendar year(s) in which the service was provided with buyback interest. It is of no consequence that the member did not serve during the entire calendar year.

Example:

A firefighter is on the list and never makes a run in the first eight months of calendar year 1988. He makes two runs, one in October, and one in November, and is paid \$50 per run. For the firefighter to be credited with one calendar year of service, he will pay 8% of \$100 together with buy back interest.

B. Charging Interest on Buy Back Payments

Buyback interest would be charged prospectively from June 21, 2013 for any purchase made pursuant to G. L. c. 32, § 4(2)(b). *See Gomes*, p. 10. For example, if a member has call firefighter service in 1975-1979, the retirement board should charge interest as of June 21, 2013. If a member has call firefighter service in 2014, the retirement board should begin to charge interest as of the time of service, i.e. 2014.

C. Buybacks Previously Furnished for Uncompensated Service

Any payments made by members for uncompensated service under G. L. c. 32, § 4(2)(b) must be returned to the member pursuant to G.L. c. 32, § 20 (5)(c)(2) with interest in accordance with the Supreme Judicial Court's decision in *Herrick v. Essex Regional Ret. Bd.*, 465 Mass. 801 (2013). Please see PERAC Memorandum #32/2013 for more information on the calculation of interest in this type of scenario.

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Example:

Assume that Retirement System A has a regulation whereby they use 3% interest rate for payments made pursuant to the Herrick decision for this example. A member made a payment to Retirement System A in the amount of \$1,200 on September 1, 2014 to receive credit for 5 years of call firefighter service. System A returns this amount to the member of January 1, 2017. System A would include 2 years and 4 months on interest on this amount. Thus, System A would return \$1,285.81 to the member (the original \$1,200 plus interest of \$85.81). This amount is determined as follows: $\$1,200 \times 1.03 \times 1.03 \times 1.01 = \$1,285.81$. [Note: the interest rate to use for the 4 months is: $3\% \times 4 \text{ months} / 12 \text{ months} = 1\%$.]

Attachment

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