

## MEMORANDUM #33, 2013

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: *MacAloney v. Worcester Regional Ret. System and Public Employee Ret. Admin. Comm'n*, CR-11-19  
(CRAB 2013)

DATE: November 20, 2013

On June 21, 2013, the Contributory Retirement Appeal Board (“CRAB”), issued a decision on 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 memorandum number 22/2013, dated August 16, 2013, providing guidance to retirement boards as a result of the decision. Since the memorandum was issued, PERAC has received additional inquiries that will be addressed in this memorandum. For purposes of this memorandum, please note that reserve or permanent-intermittent police officers or reserve, permanent-intermittent firefighters are impacted in the same fashion as call firefighters.

The first inquiry received is how to interpret the timeline from the date of the decision, June 21, 2013, as PERAC instructed in its first memorandum. Specifically, PERAC wrote as follows:

Payments for qualifying service pursuant to G.L. c. 32, § 4(2)(b) should be taken from active members as of the date of the CRAB decision, June 21, 2013.

The decision should only apply to any person who was not a retiree of a G.L. c. 32 retirement system as of June 21, 2013. Any person who retired as of June 21, 2013, should not be affected by this decision. Accordingly, any person not retired as of June 21, 2013 and going forward, must remit payments for service granted (previously or in the future) pursuant to G.L. c. 32, § 4(2)(b).

The second inquiry received is how to calculate a buy back for a permanent firefighter who never actually served in such capacity as a call firefighter. This particular issue arises often in civil service communities where the call firefighter subsequently is appointed as a permanent member of that 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:

Pursuant to the provisions of G. L. c. 32, § 4(2)(b), a permanent firefighter can purchase up to 5 years of creditable service for the time they served as a call firefighter or for the time he or she was on the respective lists and/or roster making him or her eligible for such duty. For a call firefighter who was compensated 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 and the pay received through June 30, 1996. They would pay 9% on the pay received after July 1, 1996.

Pursuant to the provisions of G. L. c. 32, § 4(2)(b), a permanent firefighter can also purchase up to 5 years of creditable service for the time he or she was on the respective lists and/or roster making him or her eligible for such duty. Consistent with the provisions of G.L. c. 32, § 85H, a call firefighter would buy back this time assuming an annual rate of salary of **three thousand dollars**. For example, a call firefighter who was compensated for the years 1995-1997, would pay 8% on pay of \$3,000 for 1995 and 8% on pay of \$1,500 for time through June 30, 1996. They would pay 9% on pay of \$1,500 for the remainder of 1996 and 9% on pay of \$3,000 for 1997.

A question has been raised as to the application of buy back interest on these service purchases. Buy back interest should only be charged prospectively from June 21, 2013 for any purchase made pursuant to G.L. c. 32 § 4(2)(b); the member should not be charged interest going back to the period they served as a call fighter or were on an eligible list.

PERAC understands that G.L. c. 32, § 4(2)(b) has been a difficult section of the statute for retirement boards and municipalities to implement consistently. While this CRAB decision may not be agreeable to all retirement boards or individuals affected, it does provide clarity and guidance on the issue. Retirement boards should implement G.L. c. 32, § 4(2)(b) in line with the decision issued by CRAB, memo number 22/2013, and this memo.