

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Chapter 32, Section 15(7)

DATE: April 9, 2012

Governor Patrick has signed into law Chapter 36 of the Acts of 2012, “An Act Making Appropriations For Fiscal Year 2012 To Provide For Supplementing Certain Existing Appropriations And For Certain Other Activities And Projects.” Section 9 of that Act amends Chapter 32, Section 15 by adding a subdivision (7).

Subdivision (7) reads as follows:

“(7) In no event shall any member be entitled to receive a retirement allowance under sections 1 to 28 inclusive, which is based upon a salary that was intentionally concealed from or intentionally misreported to the commonwealth or any political subdivision, district, or authority of the commonwealth as determined by the commission. If a member intentionally concealed compensation or intentionally misreported compensation to an entity to which the member was required to report the compensation, even if the reporting was not required for purposes of calculating the member’s retirement allowance, the member’s retirement allowance shall be based only upon the regular compensation actually reported to that entity or the amount reported to the board whichever is lower. Unless otherwise prohibited by law, such member shall receive a return of any accumulated total deductions paid on amounts in excess of the compensation actually reported, but no interest shall be payable on the accumulated deductions returned to the member.”

Chapter 36 contained an Emergency Preamble making its provisions immediately effective.



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Certain circumstances may give rise to concerns as to whether or not a violation of this statute has taken place. In that case an investigation must be conducted in accordance to subdivision (7) of Section 15 of Chapter 32 to determine whether or not the calculation of a retirement allowance is impacted by its provisions.

As part of that inquiry information must be sought by the retirement board and/or the Commission to assess whether a member “intentionally concealed compensation or intentionally misreported compensation to an entity to which the member was required to report the compensation”. For example in the case of Housing Authority employees these entities and their contacts are as follows:

Barbara Fields, Regional Administrator, Region 1 Office of Housing and Urban Development, the O'Neill Federal Building, 10 Causeway Street, Boston, MA 02222

Gregory Bialecki, Executive Office of Housing and Economic Development, One Ashburton Place, Room 2101, Boston, MA 02108

The local Housing Authority, and the city or town involved.

The Commission is charged with making a determination in such a matter and has adopted a process by which the member will be provided with a hearing in the event a question arises as to compliance with the law.

In the event that a concern arises with respect to a particular retirement application the retirement board should contact the Commission for assistance in assessing whether or not further action is necessary.

The Commission understands that this legislation represents an added burden on the retirement board and staff as we work through recently enacted pension reforms.

Thank you for your cooperation and hopefully, we can work together in order to smoothly implement this statute.