

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: PRIT Fund and Chapter 68 of the Acts of 2007

DATE: June 21, 2012

In the fall of 2007 several retirement boards availed themselves of the provisions set forth below regarding a voluntary transfer of assets to PRIT as an alternative to the issuance by the Commission of an Order pursuant to Chapter 68 of the Acts of 2007 to permanently make such a transfer. As we approach the five year period of that commitment, the Commission is providing this Memo to the retirement boards to underscore the possibility of a permanent Order issuing shortly after a system withdraws from PRIT.

Chapter 68 inserted Section 22(8)(c1/2) into Chapter 32 of the General Laws. That law directed the Commission to annually assess the investment performance of the retirement systems and compare that performance to the PRIT Fund. Systems with a Funded Ratio below 65% which failed to attain an investment return within 2% of the PRIT Fund return over the most recent 10 year period would, under the law, be required to permanently transfer assets to the PRIT Fund for investment management. The statutory language is as follows:

SECTION 2. Subdivision (8) of said section 22 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (c) the following paragraph:-

(c½) The commission shall annually review the investment performance and funded ratio of all systems using data compiled as of January 1 of the year in which the review occurs. If on or before July 1 the funded ratio data as of January 1 is not available, the most recent data shall be used. A system found by the commission to have a funded ratio of less than 65 per cent and an average rate of return during the previous 10 years that is at



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least 2 percentage points less than that of the PRIT Fund rate of return over the same period shall be declared underperforming by the commission. The commission shall notify, in writing, any system deemed to be underperforming pursuant to this paragraph that it shall transfer ownership and control of all of its assets to the PRIM board. The notice shall include, without limitation: (i) a financial report on the specific underperforming system; (ii) a description of the rights and duties of the PRIM board; and (iii) a schedule for the transfer of ownership and control of a system's assets to the PRIM board pursuant to this paragraph. A transfer of the ownership and control of a system's assets pursuant to this paragraph shall be in perpetuity.

SECTION 4. Notwithstanding any general or special law to the contrary, a pension system established pursuant to chapter 32 or chapter 34B of the General Laws that would be deemed underperforming under paragraph (c½) of subdivision (8) of section 22 of said chapter 32 may voluntarily transfer ownership and control of all of its assets to the PRIM board. The decision to voluntarily transfer ownership and control of all of its assets to the PRIM board shall be made by the retirement board of each system, subject to the approval of a majority of the local governing body as follows: in a county, by the county commissioners, in a city having a Plan D or Plan E charter, by the city council and the manager, in any other city shall, by the city council and the, mayor, in a town, by, the board of selectmen, in a regional retirement system by the regional retirement board advisory council and in all other districts, by the governing board thereof. After the decision to participate has been approved, the decision to participate shall not be revoked for 5 years. A system that would be deemed underperforming pursuant to said paragraph (c½) of said subdivision (8) of said section 22 of said chapter 32 which chooses to exercise its right to voluntarily transfer its assets pursuant to this section shall transfer its assets before October 1, 2007.

This language resulted in systems that were deemed to be underperforming in 2007 having an option to voluntarily transfer assets into the PRIT Fund and thereby avoid an Order to permanently make such a transfer. Many such systems availed themselves of that option. The purpose of this Memo is to outline the potential repercussions for such a system now withdrawing from the PRIT Fund.

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For example, in the case of one system that took voluntary action in 2007, analysis of its status as of 2011 renders it subject to a permanent Order. PRIT has a 10 year return of 6.21% at the end of 2011. The benchmark for local systems is 2% below that return or 4.21%. Over the same period, including the years in the PRIT Fund, the system achieved a return of 3.42%. In addition the system funded ratio is 48%. As a result, if the system were not in PRIT, the Commission would be compelled to issue an Order for the system to transfer its assets to PRIT permanently. In light of the differential between the benchmark and the system return (.89%) the system is unlikely to meet the standards of Chapter 68 in the first year or two following its withdrawal from PRIT. At the same time, the longer the system remains in PRIT the longer the period after withdrawal that the system should be able to avoid such a permanent Order.

We hope this guidance is helpful as retirement boards contemplate these important decisions. PERAC Compliance Officer Tom O'Donnell is available to discuss the circumstances of individual systems.