

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Same Sex Marriage Option Change  
(Section 58 of Chapter 118 of the Acts of 2012)

DATE: August 1, 2012

This memo addresses a recent statutory change to the Same Sex Marriage Option Change that was enacted in 2011. Section 55 of Chapter 176 of the Acts of 2011 permitted a retiree to change his or her option to Option C in certain, limited circumstances involving same sex marriage.

Section 58 of Chapter 118 of the Acts of 2012 makes certain changes to Section 55 of Chapter 176 of the Acts of 2011, which was originally communicated to retirement boards in PERAC Memorandum # 40/2011, issued on December 15, 2011. Specifically, Section 58 of Chapter 118 changes the repayment provisions that were contained in the 2011 law, providing the member with a guaranteed ability to enter into a long-term repayment plan.

Specifically, Section 58 states:

In paying the retirement allowance under the new election, the board, as defined in section 1 of chapter 32, shall make appropriate adjustments, or arrange for appropriate repayments, so as to recover any overpayments resulting from the prior election. A member may make a lump sum payment or installment payments over a period not exceeding 5 years, provided, however, that with the approval of the board, a member may make installment payments over a period exceeding 5 years.

Therefore, the discretion of the board to require a lump sum payment is no longer available. Be advised that these new payment provisions are only applicable to members who met the requirements of Chapter 176 of the Acts of 2011 and properly notified the board of their election to make an option change by July 1, 2012. Boards should notify any members currently in a repayment program of less than 5 years that the member has the ability to extend the repayment program out to 5 years if they desire, and further that the member may petition the board to consider a repayment program of greater than 5 years.

The balance of the provisions of Section 55 of Chapter 176 of the Acts of 2011 and PERAC Memorandum #40 remain unaffected.

We trust the foregoing will be of some assistance to you.

