Commission Meeting Minutes
October 13, 2021

Chairman Philip Y. Brown called the meeting to order at 11:05 AM. Chairman Brown acknowledged the other Commissioners participating: Commissioners Kathleen Fallon, Kate Fitzpatrick, Michael Leung-Tat, James Machado, and Jennifer Sullivan. Commissioner Richard MacKinnon was not in attendance. All attendees participated remotely pursuant to Section 20 of Chapter 20 of the Acts of 2021. Therefore, the Chairman announced the meeting was being recorded and any votes in this meeting shall be taken by roll call vote.

PERAC staff remotely in attendance: Executive Director John Parsons, Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Assistant Deputy Director Bill Keefe, Assistant Deputy Director Ken Hill, Actuary John Boorack, Compliance Director Tom O'Donnell, Compliance Analyst John Galvin, Senior Associate General Counsel Patrick Charles, Associate General Counsel Katie Bensel, Associate General Counsel Felicia McGinniss, Project Manager Tony Tse, Communications Director Natacha Dunker, Audit Director Caryn Shea, and Senior Executive Assistant Kim Boisvert.

Guests participating remotely: Sean Neilon representing the Massachusetts Teachers' Retirement System, Thomas Gibson representing Middlesex County and Belmont Retirement Boards, Kathleen Kiely-Becchetti, representing MACRS, Norfolk County Retirement System and the Watertown Retirement Board, Patrick Brock representing Hampshire County Retirement Board, Attorney James Quirk, and State Representative Andy Vargas.

Commissioner Machado made a motion to adopt the September 8, 2021 Commission meeting minutes. Commissioner Leung-Tat seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, and Jennifer Sullivan YES, and the minutes were unanimously adopted.

Audit/Fraud Prevention Sub-Committee Meeting Update

Commissioner Fallon, Chair of the Audit/Fraud Prevention Sub-Committee, reported that a meeting of the Sub-Committee was held just prior to the Commission meeting. The Sub-Committee decided upon the 2021 Fraud Prevention Campaign poster. The shark photo was forwarded to the full Commission for its approval prior to it being disseminated electronically and physically. She also reported that the Sub-Committee received an update regarding the 91A process and included information such as identified savings, excess earnings, terminations, waivers, and investigations.

On behalf of the Commission, Commissioner Fallon then made a motion to disseminate the shark poster for the 2021 Fraud Prevention campaign. Commissioner Machado seconded the motion and a roll call vote was taken. Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Actuarial Update

Mr. Boorack discussed the 1/1/21 draft Commonwealth Actuarial Valuation results which includes the Massachusetts State, Teachers', Boston Teachers', and COLA payments reimbursed to local retirement systems. He said he would like to distribute the Massachusetts Teachers' Retirement System valuation as a stand-alone report prior to the next meeting if there are no objections. He compared the results as of the 1/1/21 report to the results of the last valuation report as of 1/1/19. He pointed out that the Funded Ratio has increased by 2.1% from 56.3% to 58.2% and pointed out the Unfunded Actuarial Liability has increased by $1.6 billion. Mr. Boorack stated that he may have a few minor changes to make but would like the Commission's vote prior to distribution.

Commissioner Sullivan thanked the Actuarial team for their important and diligent work. She believes that others can voice their opinions and Massachusetts seems to be in good stead with a successful strategy. She then made a motion to adopt the 1/1/21 Commonwealth Actuarial Valuation Report while also allowing for minor corrections. Commissioner Leung-Tat seconded the motion and a roll call vote was taken: Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Legislative Update

Representative Andy Vargas, of Haverhill, was present to speak before the Commission about his bill proposal. Mr. Keefe first provided some background stating that Section 14 of Chapter 53 of the Acts of 2020 waived the hours and earnings restrictions for superannuation retirees working in the public sector for the period of the Governor's State of Emergency under Section 91. He explained that this law did not include disability retirees. As that law was expiring toward the end of 2020, Section 68 of Chapter 227 of the Acts of 2020 extended the waiver and it again did not include disability retirees. Representative Vargas has a constituent who is a disability retiree who exceeded the earnings limit in the private sector during the State of Emergency. He and his staff had been in contact with PERAC on ways to mitigate the situation and special legislation appeared to be the only solution. Representative Vargas filed HD 4445 which would retroactively allow the hours and earnings waiver for disability retirees during the State of Emergency.

Representative Vargas thanked the Commission for the opportunity to address the matter of bill number HD 4445. He reported that he filed the bill on behalf of those disabled retirees so they would be treated the same as those that have retired under a superannuation. Representative Vargas would like to make this change due to labor shortages during the Public Health Safety Emergency Order. He also stated that he would be taking this up with the legislature fairly soon and would like to do so with the support of PERAC.

Commissioner Sullivan inquired about the cost estimate for those who would be affected. Mr. Parsons stated that Ms. King just reported at the Audit Fraud Prevention Sub-Committee that there are 75 excess earners for 2020 under Section 91A.

Commissioner Sullivan thanked Representative Vargas for the dialogue and for attending the PERAC meeting seeking the Commission's support. She stated that PERAC tries to do what is right for public workers and what is best for the systems. Commissioner Sullivan stated that if an elected official successfully gets legislation passed PERAC will follow the law but PERAC doesn't want to overstep its boundaries. She doesn't feel comfortable taking a position on this bill.

Several Commissioners agreed with Commissioner Sullivan. Chairman Brown stated that PERAC could provide cost estimates for Representative Vargas but typically would not take a stand on legislation filed. Chairman Brown then thanked Representative Vargas for attending the PERAC Commission meeting.

Representative Vargas thanked the Commission for all the work that PERAC does for Public Service.

Mr. Keefe then updated the Commission about H 17, providing more flexibility regarding the Statement of Financial Interests, which has been referred to the Joint Committee on State Administration and Regulatory Oversight. Due to circumstances which have arisen, PERAC would like to introduce a proposal to amend H 17 to mirror the State Ethics Commission and to allow a retirement board member who serves 30 days or less in their final year to be exempt from filing an SFI for that final year.

Commissioner Machado made a motion to amend H 17 to allow retirement board members who serve 30 days or less in their final year to be exempt from filing an SFI for that final year. Commissioner Fallon seconded the motion and a roll call vote was taken: Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Mr. Keefe provided updates on other bills such as: H 4007, allowing public retirees working in the public sector to work up to 1,200 hours per calendar year but does not change the earning limits. H 4007 is now law with an emergency preamble and is retroactive to July 1, 2021. The Governor also signed Chapter 55 of the Acts of 2021 which extended one week of COVID sick time for all workers to be utilized for self-testing, self-sickness due to COVID and/or to take care of a sick family member. He then updated the Commission on our filed legislative bills; 5 bills have been voted out favorable from the Public Service Committee – H 10, H 11, H 12, H 13 and H 14. Still with Public Service are H 15 and H 16. Mr. Parsons testified before the State Administration and Regulatory Oversight Committee on PERAC's other bill, H 17 an Act to Provide Statement of Interests Flexibility. Finally, Mr. Keefe noted that Public Service has scheduled several hearings and he will keep the Commission informed about the hearings.

Mr. Keefe explained that pursuant to Chapter 33 of the Acts of 2021, the Comptroller will establish a schedule by October 15 to make monthly deposits totaling $250 million into the Commonwealth's Pension Liability Fund.

Mr. Keefe indictated the Department of Revenue reported that September revenue was $501 million, or 14.3% greater than the month's benchmark and $848 million or 27% above

September 2020. With the September collection of $3.99 billion, DOR reports $8.75 billion in revenue through the first quarter of FY22. This is $525 million or 6.4% above the benchmark.

Mr. Keefe then reported that PRIM's August returns were 1.28%, for a calendar year-to-date of 13.79, and a one-year figure of 25.71. Through two (2) months of FY 22, PRIM is up 2.04.

Legal Update

Ms. Corrigan provided an update on three (3) cases:

- *Demeris v. Foxborough* case contains a mistake regarding the maximum age for those in public safety. Ms. McGinniss has prepared a letter asking the Appeals Court to correct the error, currently the Attorney General's office is reviewing this letter.

- *O'Leary* case is regarding utilizing unused vacation time as regular compensation. PERAC has filed a brief and all appellee briefs are due November 5. Oral arguments should be scheduled hopefully prior to our next Commission meeting.

- *Vernava II* case is regarding the regular compensation status of certain payments made in conjunction with workers' compensation benefits. The Legal Unit is currently reviewing the brief of 5 retirement boards who are challenging PERAC Memo #17 of 2018. The oral argument is scheduled at the SJC on November 3, 2021.

Audit Update

Ms. Shea reported that since the last Commission meeting, PERAC has released the Andover Audit which was a limited scope audit with no findings. Additionally, three follow-up audits were conducted since the last meeting: Bristol County, Chicopee, and Westfield Retirement Boards. Ms. Shea reported on the audits in the field work phase, those waiting for board responses, pending exit reviews, and in the planning phases. Ms. Shea also indicated that the Audit staff have been reviewing the retirement board annual statements and attending various seminars.

Compliance Update

Mr. O'Donnell reported that to date, there have been 1,536 course completions by board members. The 2020 Statement of Financial Interests (SFI) submitted in PROSPER by board members is 99.7% complete to date. Additionally, procurements for 102 Investment Service Providers have been acknowledged to date. Mr. O'Donnell included in his compliance report a press release by the Security and Exchange Commission entitled "SEC Highlights Investor Protection for World Investor Week" which he believes is an interesting read and worthy of the public's trust.

Executive Director's Report

Mr. Parsons discussed staff activities since the last Commission meeting which are highlighted in the meeting materials. He reported that Mr. Boorack and he have discussed our

recommendations regarding Pension Obligation Bonds with A&F and DOR. He then reported that Ms. Corrigan and Ms. Carcia have been involved with the COVID vaccine compliance and that two (2) requests for exemptions have been filed. He also reported that the State Auditor's Office is currently auditing PERAC's disability and Section 91A process, which may take a few months. Mr. Parsons stated that the fourth quarter Educational Memo and the Commission Policy 99-001 communications have been included in the monthly package.

Mr. Parsons stated that Caryn Shea, Bill Keefe, and he continue to meet with the Hampden County administrator on a weekly basis to review and oversee the steps taken by the board to remedy the issues reported in the last audit. He also reported that the Chairman and another board member have terms that expire at the end of this year.

Commission Policy No. 97-006 – Selection of Commission Seventh Member

Mr. Parsons asked Commissioner Leung-Tat, as Vice Chair to step up and Chair the vote for the seventh member under Commission Policy Number 97-006. He then informed the Commissioners that Chairman Brown cannot chair this part as he is a candidate. He stated that a notice was sent to all retirement boards and also posted on our website seeking interested applicants. The notice informed interested candidates to submit resumes no later than October 6, 2021 for review at the October Commission meeting and a vote of the Commission. Chairman Brown was the only individual nominated for this position.

Commissioner Machado made a motion to nominate Philip Brown as PERACs Chairman with a term beginning November 7, 2021 for a period of five (5) years under Policy Number 97-006. Commissioner Fitzpatrick seconded the motion and a roll call vote was taken: Vice Chair Michael Leung-Tat YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Chairman Brown thanked the Commissioners for their support. He believes that this is a terrific Commission with great staff and it is his pleasure to be a part of it.

Executive Session – Purpose 1

Commissioner Fitzpatrick made a motion to vote that the Commission go into executive session to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The subject(s) of the issue at hand have been notified in writing of this meeting and have not asked that it be held in open session. The Commission will not reconvene in open session. Commissioner Machado seconded the motion and a roll call vote was taken as follows: Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Other Business

Chairman Brown announced that the next Commission meeting will be held on Wednesday, November 10, 2021.

Commission Meeting Documents
Commission Agenda for the meeting of October 13, 2021
Commission Minutes from September 8, 2021

Audit/Fraud Sub-Committee Update
2021 Fraud Campaign 101321
Jaws 11X17 poster
Pinocchio 11X17 poster
Proposed web page
Audit/Fraud Sub-Committee Update 103121
Savings spreadsheet

Actuarial Update
Draft Commonwealth Valuation Report as of 1/1/21

Legislative Update
Memorandum regarding Legislative updates
H 17 Proposal
HD 4445 Proposal

Audit Update
Audit Findings Cover Page
Andover Retirement System Audit (2015-2018)
Bristol County Regional Follow-up
Chicopee Follow-up
Westfield Follow-up
Audit Tracking Report

Compliance Update
Memorandum regarding Compliance updates

Executive Director's Report
Staff Activities
PERAC Memo # 26-2021, 4th Quarter Educational Memo
Policy 99-001

Commission Policy Number 97-006 – Selection of Commission Seventh Member
Policy Number 97-006
Phil Brown nomination correspondence

Approved:

Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission