

**Commission Meeting Minutes**  
**March 9, 2022**

Chairman Philip Y. Brown called the meeting to order at 11:03 AM. Chairman Brown acknowledged the other Commissioners participating: Commissioners Kathy Fallon, Kate Fitzpatrick, Michael Leung-Tat, James Machado, Richard MacKinnon and Jennifer Sullivan. 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 Kenneth Hill, Assistant Deputy Director Bill Keefe, Actuary John Boorack, Compliance Director, Tom O'Donnell, Compliance Analyst John Galvin, Senior Associate General Counsel Patrick Charles, Associate General Counsel Felicia McGinniss, Project Manager Tony Tse, Director of Information Systems Daniel Boyle, Communications Director Natacha Dunker, Audit Director Caryn Shea, Fraud Prevention Manager Sandra King, and Executive Assistant Doreen Duane.

Guests participating remotely: David Sullivan representing Plymouth County Retirement System, John Brown representing MACRS and the Middlesex County and Fitchburg Retirement Systems, Gerry McDonough representing Law Office of Thomas Gibson, Sean Duhamel, Bill Rehrey and Frank Valeri representing the Massachusetts Retirees Association, Lisa Maloney representing Middlesex County Retirement System, Tom Gibson representing the Belmont and Middlesex County Retirement Systems, Sean Neilon representing the Massachusetts Teachers' Retirement System, Kathleen Kiely-Becchetti representing the Norfolk County and Watertown Retirement Systems and MACRS, and Brendan McGough representing the State Retirement System.

Chairman Brown began the meeting with a moment of silence for Massachusetts State Trooper Tamar Bucci. Trooper Bucci was struck by a disabled motorist on Interstate I-93 while assisting a disabled motor vehicle and lost her life at the age of 34 on March 3, 2022. The Chairman noted her funeral is being held today.

Commissioner Fallon made a motion to adopt the February 9, 2022 Commission meeting minutes. 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, Richard MacKinnon YES, and Jennifer Sullivan YES and the minutes were unanimously adopted.

**Administrative Sub-Committee Update**

Chairman Brown reported that the Administrative Sub-Committee met earlier that morning just prior to the Commission meeting to discuss the proposed Electronic Signature regulations, which, if approved, will become 840 CMR 20.00, et seq. Mr. Brown reported that the Sub-Committee approved the regulations as written with a minor numbering change involving the use of numbers

in Section 20.06 instead of letters. The Sub-Committee voted to send these regulations to the full Commission for its consideration.

Ms. Corrigan discussed the purpose of these regulations, which is to permit the use of electronic signatures on Chapter 32 forms used by both the retirement boards and PERAC. Mr. Charles discussed the various stages and timelines involved to promulgate such regulations which should take approximately three to four months.

Commissioner Sullivan made a motion to proceed with the regulation process for the Electronic Signature regulations as amended. Commissioner MacKinnon 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, Richard MacKinnon YES, and Jennifer Sullivan YES and the motion carried. The draft Electronic Signature regulations, as amended were approved for promulgation.

### **Actuarial Update**

Mr. Boorack reported that the Investment Return Assumption has decreased seven times since January 2012. PERAC bases its recommendations on several sources such as the NEPC study, (PRIM's Investment Consultant), the Horizon Study, NASRA, PRTI Investment Consultant, and other investment consultants. PERAC's recommendations generally have not reduced the prior assumption by more than 25 basis points in a given year. Although several of the studies described above recommend further reductions in the Investment Return Assumption, Mr. Boorack does not recommend such decreases. Rather, Mr. Boorack recommends an assumption in the range of 6.85% - 7% and is comfortable if the current 7.0% assumption rate is maintained.

Frank Valeri, President of the Massachusetts Retirees Association thanked Mr. Boorack for his thorough analysis and would like the Commission to consider not reducing the assumption rate for the Commonwealth's January 1, 2022 valuation. He further discussed that reducing the assumption makes it difficult to change the COLA base for retirees. Mr. Valeri indicated that the average pension for a State retiree is approximately \$38,000 and the average COLA increase is approximately 1% of the benefit. Not reducing the assumption rate will allow municipalities to consider increasing the COLA base for retirees because the actuarial liability will not be increased due to the assumption rate reduction.

Commissioner Machado stated that over the past couple of years, he too has not supported decreasing the assumption rate due to the affects it has on municipalities' funding. Mr. Machado made a motion recommending using the current Investment Return Assumption of 7.0% for the January 1, 2022 valuation of the Commonwealth. Commissioner MacKinnon 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, Richard MacKinnon YES, and Jennifer Sullivan YES and the recommendation to keep the investment return rate assumption at 7% was unanimously adopted.

## Legal Update

Ms. Corrigan reported that the Legal Unit would be reporting on two cases and introduced Ms. McGinniss to report on the first case.

- Ms. McGinniss reported on Michael Jordan v. State Bd. of Ret. v. PERAC, CR-21-0201, CR-21-21-0452, CR-22-061, a termination retirement allowance under G.L. c. 32, § 10(2)(a). The Division of Administrative Law Appeals (“DALA”) disagreed with PERAC’s position in this matter involving a termination allowance applicant who had voluntarily agreed to leave his position. PERAC decided not to appeal this matter further and has already approved the termination retirement allowance for Mr. Jordan.
- Ms. Corrigan reported on the Supreme Judicial Court (“SJC”) decision in Worcester Regional Retirement Board & others v. PERAC, SJC 13137 (2/4/22) (“Vernava II”). This decision involved the regular compensation status of payments made in conjunction with Workers’ Compensation payments. The SJC has now ruled that such payments are not includable in regular compensation. Ms. Corrigan indicated hardships will result from this decision. PERAC will be issuing a memorandum to the boards regarding this decision. Members and/or retirees may be adversely affected by this, which may result in the reduction of some retirement allowances, the loss of some retirement allowances, and money owed to the boards for overpayments throughout the periods in question. Ms. Corrigan stated that PERAC is pursuing a legislative remedy to hold harmless retirees who retired based upon prior longstanding interpretation of the statute.

## Legislative Update

Mr. Keefe reported that the Governor signed H 4345, a supplemental budget, into law as Chapter 22 of the Acts of 2022 with an amendment to Section 14, which would have waived hours and earnings requirements for calendar year 2022 for superannuation retirees. If enacted, the Governor’s amendment would change the timeframe of the duration of the waiver to “up to 90 days” following the end of the declared Public Health Emergency, or December 31, 2022, whichever occurs first. This waiver would be identical to the waiver that was in place from the start of the Governor’s State of Emergency in March 2020 through June 15, 2021. This waiver would not apply to disability retirees. Also included in the bill is extending the Open Meeting Law waivers to July 15, 2022. These waivers were scheduled to expire on April 1, 2022.

Mr. Keefe told the Commission that many legislators have written to Treasurer Goldberg requesting that PRIM divest from Russian investments. Senator Timilty has filed a bill that would require PRIM to divest from any company with active Russian business operations within 90 days. Mr. Keefe explained that other states are taking similar actions.

Mr. Keefe reported that PRIM’s January returns were a minus 2.72 gross, leaving the fund at \$101.3 billion.

### **Audit Update**

Ms. Shea reported that since the last Commission meeting, PERAC has released the Brockton Audit Report with several findings. She then explained the findings included in the audit. She also reported on the State Retirement System follow-up audit. Ms. Shea reported on the various stages of audits as outlined in the audit tracking log as well as reporting that staff continue to work with 2 retirement systems under Temporary Orders and are also working with retirement boards to complete their 2021 Annual Statements which are due May 1.

### **Compliance Update**

Mr. Galvin reported that Statement of Financial Interest forms have been mailed to the 31 inactive members in 2021 to which 12 have responded thus far. He reported that PRIM will be hosting a webcast on PRIM Cash Transaction Processes and Procedures this afternoon that PERAC will be offering credits to board members. He also reported that the Securities and Exchange Commission has an incredibly informative Youtube Channel with topics ranging from proposed rules, cybersecurity and Special Purchase Acquisition Companies (“SPAC’s”). The videos are short but provide a quick guide to the topic presented.

### **Executive Director’s Report**

Mr. Parsons discussed numerous staff activities since the last Commission meeting which are highlighted in the meeting materials. He mentioned that PERAC had over 300 enrolled board members and staff attend the Cybersecurity training that the Comptroller and State police presented on February 28, 2022.

Mr. Parsons discussed that the latest issue of the Pension News No. 59 is included in the monthly Commission packet along with an article from the Patriot Ledger regarding the cyber attack of the Quincy Retirement Board which resulted in a loss of \$3.5 million to the Quincy pension fund. Lastly, Mr. Parsons informed the Commissioners that included in the packet is a notice of and information about the upcoming NCPERS Conference being held in person from May 21-25 in Washington, DC.

### **Other Business**

Chairman Brown announced that the next Commission meeting will be held on Wednesday, April 13, 2022 at 11:00 AM. Due to the lifting of the mask mandate, Mr. Brown discussed having the April Commission meeting at PERAC offices. Commissioners indicated that the April meeting would be held in person as well as providing remote capabilities.

Commissioner MacKinnon made a motion to adjourn the meeting. 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, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted. The meeting was adjourned at 12:16 PM.

**Commission Meeting Documents**

Commission Agenda for the meeting of March 9, 2022

Commission Minutes dated February 9, 2022

**Administrative Sub-Committee Update**

Draft Electronic Regulations 840 CMR 20.00 – Electronic Signatures

PERAC Policy 97-004

PERAC Regulation Schedule

**Actuarial Update**

Investment Return Assumption Recommendation Analysis

**Legal Update**

Michael Jordan v. State Bd. of Ret. v. PERAC, CR-21-0201, CR-21-21-0452, CR-22-061

Supreme Judicial Court decision in Vernava II

**Legislative Update**

Memorandum regarding Legislative updates

**Audit Update**

Audit Findings Cover Page

Brockton Audit

State Retirement Board Follow-Up letter

Audit Tracking Report

**Compliance Update**

Memorandum regarding Compliance updates

**Executive Director's Report**

Staff Activities

Education Survey Results – Cybersecurity training

Patriot Ledger Article dated February 11, 2022 - RE: Quincy Cyber Attack

NCPERS Conference Notice – May 21-25, 2022 – Washington, DC

Approved:



Philip Y. Brown, Chairman  
Public Employee Retirement  
Administration Commission