

Commission Meeting Minutes

June 8, 2022

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:05 AM. Chairman Brown acknowledged the other Commissioners participating: Commissioners Kathy Fallon, Kate Fitzpatrick, Michael Leung-Tat, Jennifer Sullivan, and James Guido. Commissioner Rich MacKinnon was not present for the meeting. The Chairman announced the meeting was being recorded. Commissioner Sullivan participated remotely, therefore; all motions made at this meeting will be voted on by roll call vote.

PERAC staff 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, Fraud Prevention Manager Sandra King, Associate General Counsel Katie Bense, Project Manager Tony Tse and Communications Director Natacha Dunker.

Guests in attendance: Nick Favorito and Zachary Pierce representing the State Retirement Board, Tom Gibson, representing the Middlesex County and Belmont Retirement Systems, Sean Neilon and Erika Glaster representing the Teachers' Retirement Board.

Chairman Brown welcomed James Guido, Sergeant of the Chelsea Police Department who was recently appointed by the Governor to fulfill the statutory Commission seat as the representative of a public safety union.

Commissioner Leung-Tat made a motion to adopt the May 11, 2022 Commission meeting minutes. 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, Jennifer Sullivan YES, and James Guido YES and the minutes were adopted.

Commissioner Leung-Tat made a motion to adopt the May 11, 2022 Administrative Sub-Committee meeting minutes. Commissioner Fitzpatrick seconded the motion, and a roll call vote was taken from members of the Administrative Sub-Committee:

Chairman Philip Brown YES, Kate Fitzpatrick YES, and Michael Leung-Tat YES and the minutes were adopted.

Legal Update

Mr. Hill provided the Commissioners with an update on the case of Murphy v. Newton Ret. Bd. and PERAC, CR-17-724 (DALA) (May 13, 2022). Mr. Hill reported that Division of Administrative Law Appeals ("DALA") reversed the decision of the Newton Retirement Board and credited Edward Murphy with an additional nine months of creditable service. When Mr. Murphy retired in 2017, he had thirty years and eleven months of service, however, nine months was not considered regular compensation as Mr. Murphy participated in shift swapping. PERAC has issued two memorandums (#30/2011 & #17/2012) addressing shift swapping. Based on such these memoranda, the Newton Retirement Board removed the nine months from his calculation.

DALA determined that it was “very likely that his swaps netted out” and reversed the decision of the Newton Retirement Board. PERAC disagrees with DALA’s determination and will be filing objections with the Contributory Retirement Appeals Board (“CRAB”).

Judith Corrigan provided the Commissioners with an update on the case of Twohig v. Braintree Retirement Board, CR-18-505. The Town of Braintree entered into an agreement with their superior officers and patrol officers to include an accreditation stipend in each officer’s salaries. The Braintree Retirement Board determined that such stipend is likely not regular compensation, and PERAC agrees with this analysis. DALA’s decision in this case has determined that the stipend meets the criteria for regular compensation as set forth in PERAC’s regulations. Both PERAC and the Braintree Retirement Board have filed objections with CRAB.

Patrick Charles updated the Commissioners on the status of the Proposed Regulations 840 CMR 28.00 regarding Electronic Signatures. Mr. Charles indicated that PERAC held two hearings in May and that the written comment period has ended. PERAC is delaying the Commissioner’s approval of the final regulations to allow retirement boards to address any concerns during the upcoming MACRS Conference. Mr. Charles indicated that PERAC will be providing a final draft of the proposed regulations at the July commission meeting to file with the Secretary of State for publication.

Judith Corrigan updated the Commission regarding the Supreme Judicial Court decision in *Vernava II*. PERAC has issued memorandum #14/2022 addressing this decision and actions required by retirement boards. This relates to supplemental payments such as vacation and sick time in conjunction with Workers’ Compensation benefits and the treatment of such payments as regular compensation. Ms. Corrigan reminded the Commissioners that PERAC has written to the Legislature and Governor proposing legislation to rectify this decision.

Legislative Update

Following up on the discussion of *Vernava II*, Mr. Keefe reported that the Senate withdraw the House language adopted which would hold retirees and survivors/beneficiaries harmless who would otherwise be affected by the SJC decision. The language now rests with the budget committee to reconcile the differences in the House and Senate budgets before submitting to the Governor as one bill.

Mr. Keefe then reported on H.4456, the hours and earnings waiver for calendar year 2022 for superannuation retirees working in the public sector. The House adopted an emergency preamble on May 31 to have the bill take effect immediately. It was expected the Senate would do the same on June 2 and submit to the Governor for signature. H.4456 would allow the waiver to be in place “up to 90 days” following the end of the declared Public Health Emergency or until December 31, 2022, whichever date occurs first.

Mr. Keefe reported that the House passed a 5% COLA for the State and Teachers’ Retirement Systems along with a local option for the FY23 budget. An enhanced Senate amendment for a one-time COLA was withdrawn. Additionally, the House budget includes language changing the Governor’s appointment to the PRIM Board from a public safety seat to selecting from one of three candidates nominated by the MACRS Executive Board. There was no action on this and it will be taken up in conference.

Mr. Keefe reported that the Public Service Committee obtained a second extension until June 10 to report on H. 4568. This act would expand the membership of the Hampden Regional Retirement Board from five members to seven members.

Mr. Keefe reported that PRIM's return for April was minus -4.18%. The calendar year to date (4 months) is -6.20%. As of April 30, the fund balance was \$97 billion.

Mr. Keefe also reported that the Department of Revenue was \$1.96 billion ahead for the year.

Audit Update

Ms. Shea reported that since the last Commission meeting, PERAC has released the Dedham and Holyoke Audits and the Fall River follow-up. She then explained that Dedham had a couple of findings while Holyoke had no findings. She explained the findings in the Dedham audit. Ms. Shea then reported that 100 Annual Statements have been submitted to PERAC to date and are being reviewed by Audit Staff.

Compliance Update

Mr. Galvin reported that PERAC has received over 95% of the Statement of Financial Interest forms from active board members as of this date. Mr. Galvin also reported that PERAC has received over 92% of the Annual Vendor Disclosures and continues to work with Board Members and Vendors on their submissions. Mr. Galvin also reported on the article in the Commission packets indicating that the Securities and Exchange Commission recently released a proposal on improving disclosures related to Environmental, Social, and Governance (ESG) investments. The goal is to protect investors by providing this information on ESG Funds.

Executive Director's Report

Mr. Parsons discussed numerous staff activities since the last Commission meeting which are highlighted in the meeting materials.

Mr. Parsons reported that the IT Unit has upgraded the agency to Office 365 which resulted in a change in staff e-mail addresses. Mr. Parsons indicated that we are notifying boards, vendors, constituents of the new e-mails for a smooth transition.

Mr. Parsons reported that included in the Commission packet are copies of notices regarding PERAC's approved FY23 Budget as outlined in Policy #99-001.

Mr. Parsons updated the Commission on the topics discussed at the NCPERS Conference held in May 2022.

Other Business

Chairman Brown discussed with the Commissioners that over the past several years, the Commission would cancel either the July or August meeting. The Commission agreed to cancel the August 10, 2022 meeting. Therefore, the Chairman announced that the next Commission meeting will be held on Wednesday, July 13, 2022 @ 11:00 AM at the PERAC offices.

Commissioner Fitzpatrick made a motion to adjourn the meeting. Commissioner Guido 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 Guido YES, and Jennifer Sullivan was not available due to technical issues. The motion was adopted. The meeting was adjourned at 11:52 AM.

Commission Meeting Documents

Commission Agenda for the meeting of June 8, 2022

Commission Minutes dated May 11, 2022

Administrative Sub-Committee Meeting Minutes dated May 11, 2022

Legal Update

Murphy v. Newton Ret. Bd. and PERAC, CR-17-724 (DALA) (May 13, 2022)

Twohig v. Braintree Retirement Board, CR-18-505 (DALA) (May 20, 2022)

PERAC Memorandum #14/2022 – Vernava II

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Dedham Audit

Holyoke Audit

Fall River Follow-Up Letter

Audit Tracking Report

Compliance Update

Memorandum regarding Compliance updates

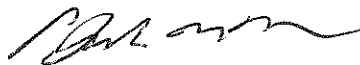
Article: Written by Chairperson, Gary Gensler, U.S. Securities and Exchange Commission – “Statement on ESG Disclosures Proposals”

Executive Director’s Report

Staff Activities

Letters to Interested Parties RE: PERAC’s FY23 Approved Budget – Policy #99-001

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission