

Commission Meeting Minutes

February 8, 2023

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:02 AM. Chairman Brown acknowledged the other Commissioners participating: Kate Fitzpatrick, Michael Leung-Tat, Jennifer Sullivan, Kathleen Fallon, Richard MacKinnon and James Guido. Chairman Brown and Commissioners Fitzpatrick, MacKinnon, and Sullivan participated remotely. Therefore, the Chairman explained, all motions made at this meeting will be voted on by roll call vote. The Chairman announced the meeting was being recorded.

PERAC staff in attendance: Executive Director John Parsons, Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Assistant Deputy Director Bill Keefe, Actuary John Boorack, Assistant Deputy Director Ken Hill, Compliance Analyst John Galvin, Deputy General Counsel Patrick Charles, Associate General Counsel Felicia McGinniss, Fraud Prevention Manager Sandra King, Director of Audits Caryn Shea, Communications Director Natacha Dunker, and Project Manager Tony Tse.

Guests participating remotely: Erika Glaster and Sean Neilon representing the Teachers' Retirement Board, Pat Brock representing the Hampshire County Retirement Board and James Quirk representing the Law Offices of James Quirk.

Chairman Brown requested a moment of silence for those affected by the recent earthquakes in Turkey and Syria.

Commissioner Leung-Tat made a motion to adopt the January 11, 2023 Commission minutes. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathleen Fallon, YES, Richard MacKinnon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, Jennifer Sullivan YES, and James Guido YES and the minutes were unanimously adopted.

Audit/Fraud Sub-Committee Update

Commissioner Fallon provided an overview of the changes proposed to sections of the regulations which were discussed at the Audit/Fraud Sub-Committee meeting held earlier that day. She indicated that the proposed changes to the regulations are to give more clarity, clean up language and remove obsolete sections that have no meaning due to legislative changes.

Patrick Charles provided the Commission with a short summary of each of the following regulations for which changes are proposed: 840 CMR 4.00, 8.00, 11.00, 12.00, and 25.00.

840 CMR 8.00, involving the so-called "\$30,000 cap" and 840 CMR 11.00, involving continuing service after age 70, will be deleted because they have been rendered obsolete. The staff also proposes deleting a large portion of 840 CMR 12.00, involving working between ages 65 and 70, for similar reasons. Extensive amendments are also proposed for 840 CMR 4.00, involving Financial Operations and Standard Methods of Accounting, and to 840 CMR 25.00, involving the Conduct of PERAC's Field Examinations of Retirement Systems. After summarizing the changes proposed, Mr. Charles explained that the next step in the regulation process is to submit these proposed changes to Administration and Finance for its review and comments. After its review,

PERAC will conduct public hearings and staff will update the Commission throughout the process. He also explained that this process takes several months before the regulations become final.

Commission Fallon made a recommendation to approve the proposed changes made to PERAC Regulations 840 CMR 4.00, 8.00, 11.00, 12.00, and 25.00 and proceed with the regulation process. Commissioner Leung-Tat seconded the motion, and a roll call vote was taken: Chairman Philip Brown YES, Commissioners Kathleen Fallon, YES, Richard MacKinnon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, Jennifer Sullivan YES, and James Guido YES and the motion was unanimously adopted.

Legal Update

Ms. McGinnis provided the Commission with an update on the case of Joseph Aiello v. Gloucester Ret. Bd. & PERAC, CR-21-001, which involves the regulator compensation status of stipends. Mr. Aiello worked for the City of Gloucester as a firefighter and was also licensed as an EMT. He later became an Assistant Fire Chief and entered into an agreement establishing the terms of his employment. The agreement stated, in part, "the EMS Educational Reimbursement stipend shall be paid at the Assistant Fire Chief's regular hourly rate." Mr. Aiello contacted the Gloucester Retirement Board ("Board") to classify these EMT stipends as regular compensation. The Board, relying on a PERAC opinion letter from 2015, determined that the EMT stipends were not regular compensation and denied his request. The Division of Administrative Law Appeals ("DALA") has decided that this stipend is regular compensation. There appears to be some confusion surrounding the "holding" of a certification as opposed to undertaking the training to hold a certification. Thus, PERAC has appealed this determination of DALA, as has the Board. It is hoped that the Contributory Retirement Appeal Board will clarify the distinctions at issue here. DALA determined that whether the payments were for "holding...training, certification, (or) licensing" was irrelevant, and that the only exclusion from regular compensation was the one concerning "expense payments" and that only encompassed the "annual certification cost" portion of the stipend.

Patrick Charles updated the Commission on Regulations 840 CMR 3.00 and 13.00 relating to Internal Revenue Code Compliance and Rollovers for Service Purchases and Buybacks, which have been previously been approved by the Commission and have already been subject to public hearings. Mr. Charles explained that these regulations have now been submitted to the legislature for its review. He indicated that Chairs have not yet been appointed to Committees due to the recent election and, consequently, there may be a delay in this process.

Legislative Update

Bill Keefe reported that the Consensus tax revenue figure to be used for the FY24 budget will be \$40.4 Billion. This figure represents a 1.6 percent increase from FY23 estimate. This figure of \$40.4 Billion falls in line with estimates provided by the Department of Revenue, Mass. Taxpayers Foundation, and Center for State Policy Analysis at the Tufts University.

Mr. Keefe reported that House members have filed over 4,100 bills while Senators have filed about 2,400 bills. PERAC's veteran buyback bill is docketed as HD 2277 in the House filed by Representative Parisella and SD 758 in the Senate filed by Senator Velis. PERAC's gender pay equity bill is docketed as HD 1785 in the House filed by Representative Livingstone and SD 876 in the Senate filed by Senator Jehlen.

Mr. Keefe reported that DOR's January revenue was \$3.8 billion, 4.6% below benchmark. This was the first time since June 2020 that monthly tax collection did not meet the benchmark. For FY 23, collections are at \$21.6 billion, \$922 million or 4.4 percent above the year-to-date benchmark.

Mr. Keefe discussed that the Emergency Open Meeting Law will expire on March 31, 2023. However, there have been discussions about extending this date. As of right now, there has been no permanent changes to this law.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Framingham and Westfield audits. She then explained the findings of both audits. The Framingham audit was a full scope audit with two findings. The Westfield audit was a limited scope audit and also had two findings. Ms. Shea reported on the status of audits as outlined in the Audit Tracking Log included in the Commission packet. She then reported that the audit staff attended the Contract Administration Webinar given by the Office of the Inspector General. She also indicated that the Calendar Year 2023 risk assessment analysis is being conducted.

Compliance Update

John Galvin reported that PRIM's return for December was -1.66% with a calendar year to date return through December 31 of -10.83%. The fund balance as of December 31 was \$91 billion.

Mr. Galvin reported that in Calendar Year 2022, the Compliance Unit acknowledged 128 procurements, reviewed 1,065 Annual Vendor Disclosures, and approved 1,529 education courses. He further reported that the 2023 Vendor Disclosure Forms have been sent out to vendors and the Certificate of Eligibility Forms have been sent to board members in January with a due date of May 1.

Executive Director's Report

John Parsons discussed numerous staff activities since the last Commission meeting which are highlighted in the meeting materials. He indicated that we have had many legislative inquiries and have been asked for cost analysis on Group Classification bills. He explained that we have met with some Investment Groups interested in doing business in Massachusetts. He indicated that Massachusetts requires these firms to file with the Secretary of State and the Securities and Exchange Commission which many other states do not require.

Mr. Parsons indicated that several PERAC staff and Commissioners attended the NCPERS Conference held in Washington, D.C. He reported that there were not as many legislative representatives at this conference as in the past but nevertheless, the conference was well done. Both Commissioner's Fallon and Fitzpatrick attended and agreed that the conference was not as comprehensive as past years, however it was the first live conference held in several years.

Mr. Parsons indicated that included in the Commission Packet is a list of Sub-Committee assignments. If any of the Commissioners would like to suggest any changes to assignments, they are asked to make such recommendations at the next Commission meeting.

Mr. Parsons reported that both he and Ms. Carcia visited six possible locations for PERAC's new office. They conducted an analysis of the pros and cons of each location and have narrowed the possible locations down to two: 10 Cabot Road, Medford and 465 Medford Street, Charlestown. They discussed their analysis with the DCAMM Project Manager and we are awaiting his response to go further and make a selection. Mr. Parsons explained that although some of the properties visited were less expensive, the location and space specifications did not meet our minimum requirements. He indicated that PERAC's Procurement Policy #07-001 states that the Commission approve any procurement over \$100,000. Although this is somewhat different, he asked that the Commission authorize PERAC staff to move forward with this process as there has already been delay because of the lack of responses to the first RFP.

Commissioner MacKinnon made a motion to authorize PERAC staff to continue work with DCAMM and enter into a lease agreement for PERAC's new leased space. Commissioner Fitzpatrick seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathleen Fallon, YES, Richard MacKinnon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, Jennifer Sullivan YES, and James Guido YES and the motion was unanimously adopted.

Mr. Parsons indicated that included in the packet is the State Ethics Commission, Conflict of Interest Law. Each year Commissioners have to acknowledge receipt of the law and every two years must complete the educational training located on the Ethics Commissions website. He requested the Commissioners submit their acknowledgement forms to Ms. Carcia.

Mr. Parsons indicated that this meeting may be Commissioner Leung-Tat's last meeting and thanked him for his service and wished him good luck. He indicated that it has been a pleasure to have a Senior member of the State Auditor's office on our board.

PERAC Commissioners thanked Commissioner Leung-Tat for his outstanding service.

Commissioner Leung-Tat made a motion to adjourn the meeting. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathleen Fallon, YES, Richard MacKinnon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, Jennifer Sullivan YES, and James Guido YES and the motion was unanimously adopted. The meeting was adjourned at 11:56 AM.

Commission Agenda for the meeting of February 8, 2023
Commission Minutes dated January 11, 2023

Sub-Committee Meeting Update

Draft Regulations:

- 840 CMR 4.00 **Financial Operations/Standard Method of Accounting**
- 840 CMR 8.00 **Applicability of \$30,000 Salary Cap**
- 840 CMR 11.00 **Service After Age 70**
- 840 CMR 12.00 **Service Between Age 65 and 70**
- 840 CMR 25.00 **The Conduct of Field Examinations of Contributory Retirement**

Systems

Legal Update

Joseph Aiello v. Gloucester Retirement Board & PERAC, CR 21-001

Letters addressed to House Clerk and Senate Clerk regarding Draft Regulations 840 CMR 3.00 and 13.00.

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Framingham Retirement System Audit Report
Westfield Retirement System Audit Report
Audit Tracking Report

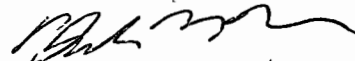
Compliance Update

Memorandum regarding Compliance updates

Executive Director's Report

Staff Activities Memorandum
Sub-Committee Member List
Conflict of Interest Law

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission