

Commission Meeting Minutes

January 10, 2024

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:10 AM. Chairman Brown acknowledged the other Commissioners participating: Kathleen Fallon, Kate Fitzpatrick, Richard MacKinnon, Michael Leung-Tat, and James Guido. Chairman Brown and Commissioner Fallon each 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. Commissioner Jennifer Sullivan was not in attendance.

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

Guests attending remotely: Sean Neilon representing the Teachers' Retirement System, Tim Smyth representing the Boston Retirement System, Tom Gibson representing the Middlesex County and Belmont Retirement Systems, Kathleen Kiely-Becchetti representing the Norfolk County Retirement System and MACRS, and Pat Brock representing the Hampshire County Retirement System.

Commissioner Fitzpatrick made a motion to adopt the December 13, 2023 Commission minutes. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

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

Executive Director Search Committee Update

Chairman Brown told the Commission that the Executive Director Search Committee met on December 20, 2023 to review the applications and met again on January 2, 2024 to select the candidates for interviews and select the location, dates and times to conduct such interviews. He reported that the Committee will interview eight candidates on January 22 & 23, 2024 at the Professional Firefighters Offices located at 2 Center Plaza, Boston. He further reported that the Committee will bring forward candidates for a vote at the February 14, 2024 Commission meeting.

Commissioner Guido inquired about the number of candidates the Search Committee will be bringing forward to the full Commission for a vote.

Chairman Brown indicated that it is their goal to narrow the list down to two candidates to bring to the full Commission for a vote.

Legal Update

Felicia McGinniss updated the Commission on DM v. Plymouth County Retirement Board, Town of MO, & PERAC, CR-17-291. This case involves the filing of an accidental disability retirement application in December 2015 due to post-traumatic stress, anxiety, and a hostile work environment. In

July 2014, fellow employees of the Petitioner discovered errors in the filings/non-filings of tax takings for the calendar years 2011 and 2012, which were the responsibilities of the Petitioner as Junior Clerk. The Petitioner was disciplined and demoted. The Petitioner claimed that she was wrongly accused and stopped reporting to work in October 2014 and was terminated by the Town of MO (“Town”) for that reason in April 2015. The Plymouth County Retirement Board (“Board”) approved the Petitioner’s accidental disability application and sent it to PERAC. PERAC remanded the application three times to the Board because an emotional injury arising principally out of a bona fide personnel action cannot constitute a personal injury for purposes of G.L. c.32, § 7 (1) and cannot be compensable unless such action constitutes the intentional infliction of emotional harm. On December 8, 2023, the Division of Administrative Law Appeals (“DALA”) issued a decision affirming the denial of the Petitioner’s application as her mental disability arose from a bona fide action by the Town.

Judith Corrigan reported on the case of Aiello v. Gloucester Retirement Board & PERAC, CR-21-330. This involves the attempt of a member, Mr. Aiello, to purchase his military service time pursuant to G.L.c. 32, Section 4(1)(h). Because Mr. Aiello failed to elect to purchase this time within 180 days of being notified, the Gloucester Retirement Board (“Board”) denied his request. The Board in denying this application was following PERAC’s Memorandum No. 11 of 2003. PERAC issued this memo after the Legislature in 2002 removed the requirements that a member in service have ten years of service to purchase up to four years of military service. PERAC has filed legislation to clarify the language regarding military buybacks, which is currently pending before the Legislature. On December 22, 2023, DALA issued an “Order Staying Case” in this matter. Ms. Corrigan reported that a similar case involving these same issues, Glouck v. State Board of Retirement, CR-19-0311 is awaiting a decision at the Contributory Retirement Appeals Board (“CRAB.”) DALA has stayed the Aiello case until either the Legislature acts on the pending legislation, or CRAB issues a final determination in Glouck, whichever event shall first occur.

Judith Corrigan also reported on the case of Dillon v. Middlesex County Retirement System, CR-21-330. This case involves a police officer who was out sick for an illness and used his accrued sick leave while he was out for an extended period of time. The question DALA faced was whether this sick leave, taken at a time Mr. Dillon could no longer perform services for the employer, should be includable in his regular compensation. DALA determined that these payments are regular compensation. It has been PERAC’s long-standing position that accrued leave taken by a member in the usual course of his or her employment should be regular compensation. PERAC currently also has a bill pending before the Legislature regarding this issue.

Legislative Update

Mr. Keefe reported that within the next month the Administration, House, and Senate must deliver their consensus revenue figure for the FY25 budget. Governor Healey will deliver her State of the State address on January 17, 2024 and must file her FY25 budget bill by January 24, 2024. In addition, Committees have until February 7, 2024 to report on bills.

Mr. Keefe further reported that for the last six months, DOR reported monthly revenue figures under benchmark with the release of the December revenue figures. DOR reported December collections of \$3.77 billion, which is \$138 million or 3.5% below the target. Halfway into FY24, the state has collected \$17.9 billion, 4.1% or \$769 million below benchmark.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Amesbury, Falmouth, Hull, and Weymouth Retirement Board Audits. Ms. Shea explained the audit findings in three of these audits noting Falmouth had no findings. She also explained the status of all audits as outlined in the Audit Tracking Log included in the Commission packet. She then told the Commissioners that several staff members of the Audit Unit will be participating in the next Administrators' training in Norwood. Some members of the Audit Unit are also preparing for the Annual Statement Training, which is scheduled for February 15, 2024 via webinar.

Compliance Unit

John Galvin reported that PRIM's return for November was 4.83%. The calendar year to date return through November 30, 2023 is 8.18% with a fund balance of \$97.9 billion.

Mr. Galvin reported that in 2023 board members completed over 1600 courses. He reported that the Statement of Financial Interests for Calendar Year 2023 will be distributed to board members by January 31. Certificates of Eligibility will be sent out shortly. The Annual Vendor Disclosure will be sent later this month to vendors.

Executive Director's Report

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

He then stated that included in the Commission packet is the 1st Quarter Education Memo and Pension Newsletter.

Lastly, Mr. Parsons discussed the proposal of a cost-of-living salary increase for PERAC employees to be effective January 1, 2024. He explained that included in the Governor's FY25 budget was funding for state union contracts allowing for a 4% increase retroactive to July 1, 2023 and a 4% increase effective January 1, 2024 along with step increases during FY24. He indicated that the Commission approved a 3% cost of living adjustment and a 0-3% increase based on performance reviews of PERAC staff for the FY24 budget. He further explained that we recently conducted a salary compensation survey of similar state positions and found that PERAC salaries were comparatively lower and request that the Commission consider this increase to be competitive. He further indicated that this increase will not result in requesting additional funding for the FY24 budget.

Commissioner MacKinnon made a motion to approve a 3% increase to PERAC employees effective January 1, 2024. Commissioner Fitzpatrick seconded the motion, and a roll call vote was taken.

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

Chairman Brown then announced that the next Commission meeting will be held on Wednesday, February 14, 2024 at 11:00 AM at the PERAC offices.

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

Chairman Philip Brown YES, Commissioner James Guido YES, Commissioner Richard MacKinnon YES, Commissioner Kate Fitzpatrick YES, Commissioner Fallon YES, and Michael Leung-Tat YES. Thus, the motion was unanimously adopted. The meeting was adjourned at 11:45 AM.

Commission Meeting Documents

Commission Agenda for the meeting of January 10, 2024

Commission Minutes dated December 13, 2023

Executive Search Committee Update

Executive Search Committee approved minutes dated December 7, 2023

Executive Search Committee approved minutes dated December 20, 2023

Legal Update

DM v. Plymouth County Retirement Board, Town of MO, & PERAC, CR-17-291

Aiello v. Gloucester Retirement Board & PERAC, CR-23-0445

Dillon v. Middlesex County Retirement System, CR-21-330

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Amesbury Retirement Board Audit

Falmouth Retirement Board Audit

Hull Retirement Board Audit

Weymouth Retirement Board Audit

Audit Tracking Report

Executive Director's Report

Staff Activities Memorandum

Memorandum No. 30/2023 – 1st Quarter Education Training

PERAC Newsletter No. 64

Memorandum RE: Proposed FY24 Budget Amendment

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission