

Commission Meeting Minutes

June 12, 2024

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:03 AM. Chairman Brown acknowledged the other Commissioners present: Kate Fitzpatrick, Richard MacKinnon, Michael Leung-Tat, and James Guido. Commissioner MacKinnon 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. Commissioners Kathy Fallon and Jennifer Sullivan were not in attendance.

PERAC Staff in attendance at the PERAC offices: Executive Director Bill Keefe, First Deputy Executive Director Caroline Carcia, Deputy Executive Director Kenneth Hill, General Counsel Judith Corrigan, Assistant Deputy Director Patrick Charles, Director of Audits Caryn Shea, Actuary John Boorack, Compliance Manager John Galvin, Senior Associate General Counsel Felicia McGinniss, and Project Manager Anthony Tse.

PERAC staff attending remotely: Communications Director Natacha Dunker.

Guests attending remotely: John Brown representing the Middlesex County Retirement System and MACRS, and Pat Brock representing the Hampshire County Retirement System.

Commissioner Fitzpatrick made a motion to adopt the minutes of the Commission Meeting of May 8, 2024. Commissioner Guido seconded the motion, and a roll call vote was taken:

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

Actuarial Update

John Boorack reported on the Other Post Employment Benefits (“OPEB”) Summary Report that was recently released. He explained that the first OPEB report was released in 2016 which included data for about 450 Commonwealth cities, towns, and other district entities and about 110 school, water, light and fire districts. The second OPEB Report was released in 2016 which included about 350 cities and towns. He indicated that the current summary report includes about 250 schools, other districts and authorities, counties, and educational collaboratives. He indicated that cumulatively, the total liability is \$5.0 billion, assets are \$716 million, and the funded ratio is 14.4%.

Legal Update

Ken Hill updated the Commission on the *Hartnett* Case that was heard by the Supreme Judicial Court (“SJC”) on May 8, 2024, almost at the same time as our Commission meeting. This case not only involves anti-spiking provisions but may decide whether pension reform provisions may be applied to existing members of a retirement system. Mr. Hill explained that the Attorney General’s Office represented PERAC at the argument. The justices had many questions. A decision should come out around September.

Judith Corrigan updated the Commission on the ongoing matter of Michael McLaughlin (“Mr. McLaughlin”), the former Executive Director of the Chelsea Housing Authority (“CHA”). Ms. Corrigan stated that the case has been going on since Mr. McLaughlin resigned from his position amid allegations of wrongdoing and filed for a superannuation retirement allowance in 2011. His entitlement to such an allowance and other issues related to his employment and his annuity account have been in dispute in various forums ever since. Ms. Corrigan reported on a recent Division of Administrative Law Appeals (“DALA”) decision which cleared up certain jurisdictional matters regarding the six cases currently pending before DALA. However, Mr. McLaughlin has appealed this decision about jurisdiction to the Contributory Retirement Appeal Board (“CRAB.”) Ms. Corrigan noted that this matter had come before the Commission exactly ten years earlier, at the Commission Meeting of June 12, 2014. Part of the what the DALA decision resolved had been discussed at the June 2014 meeting.

Felicia McGinniss updated the Commission on the recent CRAB decision in MWRA Employees Retirement System v. PERAC, CR-19-0320. This case involves the interplay of the provisions of Option C, in which a retiree names a beneficiary to receive a lifetime allowance, and Option D, the lifetime allowance available in some situations when a member dies prior to retirement. In this case, Richard Capozzi (“Mr. Capozzi”) filed for a superannuation retirement, and then died within 30 days of the effective retirement date, having selected Option C and his wife, Debra Capozzi (“Ms. Capozzi”) as his Option C beneficiary. CRAB decided, as PERAC had before it, that Ms. Capozzi was entitled to an Option C benefit.

Generally, Option D selections are extinguished by a member’s retirement. If a member dies within 30 days of his effective date of retirement, however, Option D may come into play again, unless the member selected Option C, as happened in this case. What this means as a practical matter is that Ms. Capozzi receives an Option C benefit for life, which is about 1/3rd less than the benefit she would have received under Option D. The retirement administrator might have been able to counsel Mr. Capozzi about this if they had been alerted to his medical condition. Because a member has to die within 30 days of his or her effective date of retirement having selected Option C, the facts of this case are difficult, but not impossible, to replicate. This decision is not being appealed.

Legislative Update

Mr. Charles reported that on May 23, 2024 the Senate passed its version of the Fiscal Year 2025 annual budget which is approximately \$58 billion. Included in the House and Senate Budget is a 3% Cost of Living Adjustment (COLA) for the State and Teachers’ retirement systems. The House and Governor’s budget contains a provision establishing a Special Commission to study the COLA, specifically increasing the State and Teachers’ COLA base, determining the cost, and analyzing how to fund any increase. The Senate budget does not include a Special Commission to study the COLA.

He also reported that included in the approved House budget are amendments increasing the mandatory life insurance for State employees from \$5,000 to \$10,000 and giving MACRS the ability to nominate three people for the public safety union seat on the PRIM Board. He further indicated that the Senate budget did not include either of these.

He noted that included in the Senate budget filed by Senator Brownsberger is a Restoration to Service amendment. Currently, a member may return to service after retiring from disability to the same or similar position. This change would allow a member to return to service in a completely different position and different retirement system. Also included in the Senate Budget is an amendment filed by Senator Bruce Tarr which would create a Post Retirement task force to study post-retirement work

requirements under Section 91. This would be in response to the Inspector General's report that was recently released. He further indicated that the Equal Pay Act amendment that PERAC requested Senator Patricia Jehlen to file was not adopted in the Senate Budget.

Mr. Charles also explained that DOR's May collection of \$2.447 billion was \$260 million or 9.6% less than actual collections in May 2023. The Fiscal Year to date collections totaled \$36.305 billion, which is \$1.279 billion more than collections in the same period for FY2023 and 2% more than the year-to-date benchmark.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Gardner Retirement Board Audit. Ms. Shea explained that the Gardner Retirement Board had one finding relating to retirement calculations. She went on to point out that PERAC has received 92 Annual Statements and audit staff have been reviewing these statements. She indicated that we have hired two new auditors since the last Commission meeting and continue to seek additional staff to the unit. She indicated that PERAC staff have refined the audit program which will help with completing audits more efficiently and in a more timely manner. She then told the Commissioners that the PERAC Investment Analysts are preparing the annual performance report of the retirement boards for calendar year 2023.

Compliance Unit

John Galvin reported that PRIM's return for April was -1.82%. The fund balance as of April 30, 2024 was \$102 billion.

Mr. Galvin reported that over 497 board members have filed their annual Statement of Financial Interest Forms through PROSPER and that we are reaching out to those who have not filed yet.

Executive Director's Report

Mr. Keefe discussed numerous staff activities since the last Commission meeting, which are highlighted in the meeting materials. He reported that PERAC was well represented at the MACRS Conference in Hyannis with many staff presenting at the TEDS Conference and the Annual Conference. He further reported on an article from the Town of Arlington relating to a recent Cybertheft attack totaling \$450,000. He informed the Commissioners that the communication from the Arlington Town Manager to its community was disseminated to the retirement community as it contained excellent business practices to prevent further cyberattacks. He further reported that included in the Commission packet are notices regarding the Commission's Fiscal Year 2025 budget in accordance with Policy #99-001.

Mr. Keefe informed the Commission that PERAC's Annual Emerging Issues Forum will be held on September 18, 2024 at a new location at the DoubleTree by Hilton, Westborough, MA. Included in the Commission packet is a "save the date" card that will be sent to the retirement community shortly. Lastly, Mr. Keefe notified the Commission that most recently, we have been informed by the broker at 10 Cabot Road, Brookwood, that the construction costs for PERAC's new office space has amounted to more than \$480,000 than what their original proposed bid indicated.

Caroline Carcia explained to the Commission that proposals were submitted back in December 2022. The bids at that time included build-out costs. Brookwood is currently receiving bids for the build-out of PERAC's offices and indicating an overage of over \$480,000. Ms. Carcia indicated that Brookwood is proposing PERAC fund the entire cost for the overage and provided us with the following three

funding options. The first option is to pay the full amount at once. The second option would be to pay half the amount up front and amortize the other half over the 10-year lease with interest. The last option would be to amortize the entire amount over the 10-year lease with interest.

Ms. Carcia indicated that we are in discussions with the Department of Capital Asset Management to negotiate such costs and will further update the Commission.

Mr. Keefe discussed that in the past the August Commission Meeting has been cancelled due to vacations. He asked if the Commission is considering cancelling the August meeting this year. He also reported that MACRS scheduled their Fall conference from December 8 – 11, 2024 which conflicts with the Commission meeting currently scheduled for December 11, 2024.

Commissioner Guido made a motion to cancel the August 14, 2024 Commission meeting. Commissioner Fitzpatrick seconded the motion, and a roll call vote was taken as follows:

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

Commissioner Fitzpatrick made a motion to change the December 11, 2024 Commission meeting to December 18, 2024. Commissioner Leung-Tat seconded the motion, and a roll call vote was taken as follows:

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

Chairman Brown then announced that the next Commission meeting will be held on Wednesday, July 10, 2024 at 11:00 AM at the PERAC offices.

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

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, James Guido YES, Michael Leung-Tat YES and Richard MacKinnon YES. Thus, the motion was adopted. The meeting was adjourned at 12:07 PM.

Commission Meeting Documents

Commission Agenda for the meeting of June 12, 2024

Commission Minutes dated May 8, 2024

Actuarial Update

OPEB Summary Report Highlights

OPEB Summary Report – School Districts, Other Districts and Authorities, Counties, and Educational Collaboratives

Legal Update

Memorandum Regarding accompanying Michael McLaughlin DALA Decisions

MWRA Employees Retirement System v. PERAC, CR-19-0320

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Gardner Retirement Board Audit

Audit Tracking Report

Compliance Update

Memorandum regarding Compliance updates

PRIM Summary of Plan Performance – As of April 30, 2024

Executive Director's Report

Staff Activities Memorandum

Policy 99-001 Letters

Communication to Retirement Boards RE: Cyberattack

Letter from Town of Arlington Manager RE: Cybercrime Attack

Save the Date Notice – Emerging Issues Forum - September 18, 2024

PERAC Duties & Responsibilities Spreadsheet

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission