

Commission Meeting Minutes

December 18, 2024

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 Commissioners present at PERAC offices: Richard MacKinnon, James Guido, Kathleen Fallon, and Kate Fitzpatrick. Chairman Brown, Michael Leung-Tat and Commissioner Jennifer 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 at the PERAC offices: Executive Director Bill Keefe, First Deputy Executive Director Caroline Carcia, Deputy Executive Director Kenneth Hill, Assistant Deputy Director Patrick Charles, Director of Audits Caryn Shea, Actuary John Boorack, Compliance Manager John Galvin, Senior Associate General Counsel Felicia McGinniss, Associate General Counsel Christopher Windle, Communications Director Natacha Dunker, and Project Manager Anthony Tse.

Guests attending: Sean Neilon and Robert Fabino representing the Teachers' Retirement System.

Commissioner Fitzpatrick made a motion to adopt the minutes of the Commission meeting of November 13, 2024. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

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

Actuarial Update

John Boorack presented the draft Commonwealth valuation report as of January 1, 2024. The four components of the Commonwealth's Total Pension Obligation are the State Retirement System, Massachusetts Teachers' Retirement System, Boston teachers and COLA reimbursement to local systems for COLAs paid between 1981-1996. He mentioned that the unfunded actuarial liability as of January 1, 2024 was \$42.3 billion compared to the unfunded actuarial liability as of January 1, 2023 which was \$42.4 billion. The funded ratio increased from 63.5% to 65.0%. He mentioned that there were no assumption changes in this valuation. Mr. Boorack indicated that since 1990, the actuarial accrued liability increased 6 times, whereas the actuarial value of assets increased 10.1 times. He indicated that there was an overall actuarial gain of \$299 million (consisting of a \$732 million loss on the actuarial liability and a \$1.03 billion gain on the actuarial value of assets). Lastly, he showed the Low Default Risk Obligation Measure (LDROM) to be \$154.2 billion based on an investment return assumption of 4.76% compared to the funding actuarial liability of \$120.8 billion.

Commissioner James Guido made a motion to accept the results of the Draft Commonwealth Valuation Report as of January 1, 2024 and release the final valuation report. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

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

Legal Update

Felicia McGinniss provided the Commission with an update on an undisclosed case from the Division of Administrative Law Appeals (“DALA”) concerning a G.L. c. 32, § 91A excess earnings issue. Ms. McGinniss explained that the file was officially sealed by the DALA Magistrate and so the case could not be disclosed. The case concerned three issues: (1) a retirement board’s right to withhold the full retirement allowance as repayment of excess earnings; (2) the retirement board’s continued deductions taken for child support, but not health insurance; and (3) PERAC’s role in disputes between members and retirement boards.

Concerning the first issue, DALA concluded that Section 91A specifically gives retirement boards the option to withhold the entire retirement allowance and not just the pension portion. Here, the retirement board was within its discretion to withhold the retiree’s full retirement allowance as security to repay the excess earnings. On the second issue, DALA held that pursuant to G.L. c. 32, § 19 the retirement board was legally required to withhold child support payments as the Department of Revenue was still reporting that child support payments were ongoing. DALA also held that the retirement board had no obligation to continue withholding insurance premiums while the retirement allowance was held in security. As such, the retirement board exercised its discretion not to exempt the health insurance premiums. In response to the final issue, DALA held that PERAC was a necessary party as it is the agency that oversees the retirement systems and administers/monitors the excess earnings program under Section 91A. Ms. McGinniss informed the Commission that no appeal of the DALA Decision had been filed, and so this decision is a final determination of the Contributory Retirement Appeal Board (“CRAB”).

Legislative Update

Mr. Charles reported that on December 4, 2024, the Governor signed Chapter 248 of the Acts of 2024 *An act making appropriations for the fiscal year 2024 to provide for supplementing certain existing appropriations and for certain other activities and projects*. Included in this act was a section regarding anti-spiking and a unique situation regarding the exceptions to the anti-spiking rules related to Massport. Under c. 32, § 5(2)(f) there is an exception to anti-spiking if the salary increase is negotiated as part of a collective bargaining agreement (CBA) under Chapter 150E. Massport employees do not negotiate their collective bargaining agreements under Chapter 150E but rather under a provision in the agency’s enabling statute. This has meant that raises negotiated as part of a CBA were subject to anti-spiking at Massport. Section 139 of Chapter 248 provides that pay increases that were the result of a CBA between March 1, 2020, and July 1, 2024, are exempt from triggering anti-spiking.

Mr. Charles reported that DOR’s November revenue was \$2.438 billion, \$190 million or 8.4% more than actual collections in November of 2023. This figure is \$56 million or 2.4% above benchmark.

Mr. Charles reported that the FY2025 year-to-date collections totaled approximately \$14.898 billion, which is \$805 million or 5.7% more than actual collections in the same period of FY2024, but \$124 million or 0.8% below the year-to-date benchmark.

Lastly, Mr. Charles reported that PRIM’s return for October was -1.42%. The calendar year to date return through October 31 was 8.46%. The fund balance as of October 31 was \$109 billion.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Marblehead and Peabody Retirement Board Audits and follow-up audits for the Brookline and Natick Retirement Boards. Ms. Shea explained that both the Marblehead and Peabody Retirement Board Audits had no findings. She further explained those items resolved and not resolved in the follow-up audits and that the Audit Unit will follow-up on those items not resolved. Ms. Shea further discussed the status of other board audits as outlined in the Audit Tracking Log.

Executive Director's Report

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

He noted that on November 14, 2024, he attended the Investors Conference along with other PERAC staff at which Commissioner Sullivan was a keynote speaker. He referenced a municipal finance fellowship program for students that Department of Revenue Division of Local Services' Sean Cronin presented on and discussion ensued.

Mr. Keefe noted that the Fall MACRS Conference was held in December this year as opposed to October and it was the most attended Fall MACRS Conference to date. He discussed the program, which was excellent, and explained which members of the PERAC staff made presentations.

Mr. Keefe noted that included in the Commission packets is a communication to the Department of Public Health and the Massachusetts Medical Society seeking physician recruitment to perform our medical exams for disability retiree applicants.

He then stated that included in the Commission packet is the yearly review of the Medical Testing Fee. He recommends that this remain the same at the rate limit of \$100.00 per case for the 2025 calendar year.

Commissioner MacKinnon made a motion to approve the 2025 Medical Testing fee at the current rate of \$100.00. Commissioner Guido seconded the motion, and a roll call vote was taken:

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

Lastly, Mr. Keefe also noted that included in the Commission packet is the 2025 Commission meeting schedule that requires a vote of the Commission.

Commissioner Fitzpatrick made a motion to accept the 2025 Commission meeting schedule as proposed. Commissioner MacKinnon seconded the motion and a roll call vote was taken:

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

Chairman Brown then announced that the next Commission meeting will be held on Wednesday, January 8, 2025, 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 as follows:

Chairman Philip Brown YES, Commissioners Jennifer Sullivan YES, Kate Fitzpatrick YES, Kathleen Fallon YES, Michael Leung-Tat YES, James Guido YES, and Richard MacKinnon YES. Thus, the motion was adopted. The meeting was adjourned at 11:35 AM

Commission Meeting Documents

Commission Agenda for the meeting of December 18, 2024

Commission Minutes dated November 13, 2024

Actuarial Update

Draft Commonwealth Actuarial Valuation Report – As of 1/1/24

Legal Update

Case Update on G.L. c.32, § 91A and Duties of a Retirement Board & PERAC

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Marblehead Retirement Board Audit

Peabody Retirement Board Audit

Brookline Retirement Board Follow-Up Audit

Natick Retirement Board Follow-Up Audit

Audit Tracking Report

Executive Director's Report

PERAC MEMO #27/2024 – Changes to Return to Service under G.L. c. 32, § 8

PERAC MEMO #28/2024 – Violent Assault Disability – Chapter 149 of the Acts of 2024

Executive Director's Report

Staff Activities Memorandum

840 CMR 10:10(3) & 10:15(1)(c) – Annual Review of Medical Testing Fee

Letter to Massachusetts Medical Society regarding Physician Recruitment

Letter to Massachusetts Department of Public Health regarding Physician Recruitment

2025 Commission Meeting Schedule

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission