

# PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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## MEMORANDUM

TO: All Retirement Boards

FROM: John W. Parsons, Esq., Executive Director

RE: *Vernava II* – Important Update

DATE: July 29, 2022

On June 2, 2022, PERAC issued Memorandum No. 14 of 2022 to the retirement boards. This memorandum outlined steps that would need to be taken to implement the Supreme Judicial Court (“SJC”) decision in *Worcester Regional Retirement Board & others<sup>1</sup> v. PERAC*, 489 Mass. 94 (February 4, 2022) (“*Vernava I*”). We alerted you that there was pending legislation to address this matter and we are pleased to provide this update to Memorandum No. 14 with the passage of Section 149 of Chapter 126 of the Acts of 2022.

The Governor signed Chapter 126, the budget for Fiscal Year 2023, into law on July 28, 2022. Section 149 of this Act provides that the *Vernava* decisions<sup>2</sup> shall not apply to any member of a retirement system who retired prior to July 1, 2022. Specifically, Section 149 provides in its entirety as follows:

Notwithstanding any general or special law to the contrary, the retirement allowance of any member who retired pursuant to chapter 32 of the General Laws prior to July 1, 2022, which included in the calculation of such allowance supplemental payments of any kind upon which retirement contributions were made, which supplemental payments were received while the member was simultaneously receiving workers’ compensation payments pursuant to chapter 152 of the General Laws shall not be reduced, modified or changed as a result of the inclusion of such supplemental payments. Such prohibition shall also apply to retirement allowances paid to surviving spouses and beneficiaries of such members.

<sup>1</sup> Essex Regional Retirement Board, Franklin Regional Retirement Board, Peabody Retirement Board and Stoneham Retirement Board

<sup>2</sup> *PERAC v. CRAB et al*, 478 Mass. 832 (2018) (“*Vernava I*”) was a precursor to the *Vernava II* case. .



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This is obviously tremendous news for the retirees and their beneficiaries. This means that no one who previously retired under the circumstances addressed in *Vernava I* and *Vernava II* will lose their retirement allowance, lose their health insurance, have their retirement allowance reduced, or have to reimburse the retirement systems for overpayments.

Because no retiree or beneficiary allowances awarded prior to July 1, 2022, in the circumstances outlined in Section 149 of the Act shall be disturbed, consequently Section IV B. of Memorandum No. 14 of 2022 entitled “For Retired Members and Their Beneficiaries” is hereby superseded as is any portion of Memorandum No. 14 of 2022 which states that the *Vernava* decisions affect retirees and their beneficiaries.

All other instructions regarding active members and inactive members who have not yet retired in Memorandum No. 14 of 2022, and all other portions of Memorandum 14 which do not specifically address retirees and their beneficiaries, remain in full force and effect.

PERAC thanks the Legislature and those in the retirement community who aided our efforts to protect public retirees affected by the *Vernava* decisions.

If you have any questions about this memo, please contact PERAC’s General Counsel, Judith Corrigan, at (617) 591-8904 or at [judith.a.corrigan@mass.gov](mailto:judith.a.corrigan@mass.gov).