

# PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

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## MEMORANDUM

TO: All Retirement Boards

FROM: Bill Keefe, Executive Director

RE: Changes to Return to Service under G.L. c. 32, § 8

DATE: October 24, 2024

On July 29, 2024, Governor Healy signed the Fiscal Year 2025 Annual Budget, Chapter 140 of the Acts of 2024, that contained three sections that amend the return to service process pursuant to G.L. c. 32, § 8. Specifically, Sections 68-70 of Chapter 140 amend Section 8 to allow more opportunities for members to return to service after having previously been retired under disability retirement pursuant to Sections 6, and 7 of Chapter 32. In short, a disability retiree may now return to service in a different job than that from which they retired, and it may be with a different employer and/or in a different retirement system.<sup>1</sup>

In accordance with Section 8 of Chapter 32, the Public Employee Retirement Administration Commission (“PERAC”) requires that all disability retirees must “participate in an evaluation to determine whether the member is able to perform the essential duties of the position from which he retired or a similar job within the same department for which he is qualified...” This evaluation is known as the Comprehensive Medical Evaluation (“CME”). PERAC schedules and administers these CMEs on a periodic basis, with CMEs taking place once per year during the first two years after a member’s retirement, and once every three years thereafter. If a member is found able to return to such a job during the CME process, the member must undergo further evaluation by three physicians during the Return to Service (“RTS”) process. No changes have been made to these provisions of Section 8.

<sup>1</sup> Group 3 members of the Massachusetts State Police retire for disability pursuant to Section 26 and may return to service pursuant to Section 26(5). Therefore, these changes to Section 8 do not apply to disability retirees of the State Police.



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Section 69 of Chapter 140 adds a paragraph to Section 8 of Chapter 32, which expands the categories of positions from which a disability retiree may return to service, the employer, and the retirement system. Specifically, the new language provides the following:

During the regular periodic evaluation required pursuant to this section, a member may request that, in addition to being evaluated for a return to their former position, the member be evaluated for a specific identified position in a retirement system other than the position from which they retired, including a position with a different employer or a position that would entitle the member to membership in a different retirement system. The evaluation shall be conducted in the same manner as all other examinations provided for in this section. If the member is found able to perform the essential duties of the identified position, the member shall be permitted to return to active service in said position and the member's pension provided for in section 6 or 7 shall cease upon the member's return to service. (Emphasis added).

Thus, under the new provisions of G.L. c. 32, § 8, upon the disability retiree's request, he or she also may be evaluated for a different position from which they retired, with the same or a different employer and/or in a different retirement system.

The member must identify a specific position and the essential duties for that position, which will be reviewed by PERAC and, eventually, the examining doctors. Following the examination, the doctors will determine whether the retiree possesses the physical and mental capacity to perform the necessary duties for that different position. This would allow a member to take a completely different job than the job from which they retired and be returned to active service in a different retirement system. For instance, a former police officer who has a law degree may be physically unable to return to police work but may be able to work as an attorney for a state or municipal employer. Such a member may request that they be evaluated for that attorney position and, if found able, could then take the attorney position and be returned to active service.

**Any return to service through this amended Section 8 is by the member's election:** There is no mandatory requirement that a member seek to return to a different position. Additionally, for members returning to service in a different position from which they retired, there is no mandate to hire that person; they are a candidate for a position like any other candidate.

As always, when a person returns to service, the original retirement system grants the person creditable service for the period of their disability. That remains the same. Upon their return to service in a second retirement system, the member's disability payments from the first system stop.

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From that date forward, the second system will be responsible for any future creditable service. Upon the member's superannuation retirement, both retirement systems will be assessed a portion of the pension under G.L. c. 32, § 3(8)(c), in exactly the same manner as currently occurs when a member has service in two or more systems.

If the member were to return to service in a second system, and then go back out on a disability based upon the original injury, the amended Section 8 provides that the original retirement system will be assessed a portion of the disability pension pursuant to G.L. c. 32, § 7(5).

PERAC is in the process of updating its forms and implementing internal procedures to accommodate this new legislation. Given that the CME and RTS processes generally do not involve the retirement boards, please direct any and all inquiries to PERAC.

If you have any questions, please feel free to contact Deputy Executive Director Ken Hill at [kenneth.j.hill@mass.gov](mailto:kenneth.j.hill@mass.gov) or (617) 591-8945.