

Commission Meeting Minutes
September 12, 2018

Chairman Philip Y. Brown called the meeting (held at the PERAC Office, 5 Middlesex Avenue, Somerville, Massachusetts) to order at 11:10 AM. He then stated that the Commission meeting is being tape recorded and this will be so noted in the minutes.

Chairman Brown acknowledged the other Commissioners present: Commissioners Timothy Dooling, Kathleen Fallon, Kate Fitzpatrick, James Machado, and Robert McCarthy. Commissioner Jennifer Sullivan was not in attendance.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, General Counsel and Deputy Director John Parsons, Deputy General Counsel and Managing Attorney Judith Corrigan, Actuary Jim Lamenzo, Actuary John Boorack, Director of Administrative Services Caroline Carcia, Director of Strategic Planning Mike DeVito, Compliance Officer Tom O'Donnell, Compliance Counsel Derek Moitoso, Chief Auditor Caryn Shea, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Project Manager Anthony Tse, Senior Systems Engineer Robert Perez, Compliance Analyst Cheryl Johnson, and Senior Executive Assistant Kim Boisvert.

Ms. Boisvert announced the following guests in attendance: Sean Neilon representing the Massachusetts Teachers' Retirement Board, Nick Favorito representing the State Retirement Board, Thomas Gibson representing the Middlesex and Belmont Retirement Boards, Michael O'Reilly representing the Boston Retirement Board, John Brown representing Middlesex Retirement Board and MACRS, Thomas Ross representing the Somerville Retirement Board, Lisa Adams representing the MMA, Robert Colburn and Christopher Broderick representing the Boston Police Patrolmen's Association, Leah Berault, Craig M. Hardy, Rich MacKinnon and Billy Cabral representing the Professional Fire Fighters of Massachusetts, Susan Horwitz representing Sandulli Grace, Paul Hynes representing Boston Fire – Local 718, Tim King representing MassCops, Scott Horsepian representing Waltham Police Department / MassCops, Jeanne Carroll and Tim Kervin representing the Boston Police Superior Officers Federation.

Commissioner Machado made a motion to adopt the July 11, 2018 Commission meeting minutes. Commissioner Dooling seconded the motion.

Commissioner McCarthy amended the motion to change his wording on page 1108 to remove the word "stated" and insert "recommended" as it pertains to the advertisement of the Executive Director's position.

Commissioner Machado made a motion to adopt the amendment regarding the July 11, 2018 Commission meeting minutes. Commissioner Dooling seconded the motion and the amended minutes were unanimously adopted.

Joint Legislative / Disability Sub-Committee Meeting

Chair Fitzpatrick reported that the Joint Legislative / Disability Sub-Committee met on August 8, 2018. The Sub-Committees discussed PERAC's filing date for the 2019-2020 Legislative Session which is November 7, 2018 and several proposed bills.

The Sub-Committee voted to re-file the Educational Credits Flexibility Bill and the Pension Forfeiture Bill as amended this Session.

Chairman Brown asked if any Commissioner wanted to make a motion.

Commissioner Fitzpatrick made a motion to re-file the Educational Credits Flexibility Bill. Commissioner Fallon seconded the motion and it was unanimously adopted.

Commissioner Machado made a motion to file the Pension Forfeiture Bill as amended this legislative session. Commissioner Dooling seconded the motion and it was unanimously adopted.

Mr. Charles summarized each legislative proposal and the Commission voted on each bill individually as follows:

1. Recovery of a Member's Pension in Overearnings Cases

Chairman Brown asked if any Commissioner wanted to make a motion. Commissioner Fallon made a motion to file the legislation regarding the Recovery of a Member's Pension in Overearnings Cases. Commissioner Fitzpatrick seconded the motion. Commissioners Machado and McCarthy voted against the motion, nevertheless, the motion was adopted on a 4-2 vote.

2. Supplemental Payments Taken in Conjunction with Workers' Compensation

Chairman Brown asked if any Commissioner wanted to make a motion. Commissioner McCarthy made a motion to file the legislation regarding the Supplemental Payments Taken in Conjunction with Workers' Compensation. Commissioner Machado seconded the motion and the motion was unanimously adopted.

3. Modification of Retirement Allowances

Chairman Brown asked if any Commissioner wanted to make a motion. Commissioner Machado made a motion to file the legislation regarding the Modification of Retirement Allowances. Commissioner McCarthy seconded the motion and the motion was unanimously adopted.

4. Veterans 180 Day Buyback Requirement

In regard to the current requirement that veterans notify their board that they wish to buy their military time within 180 days of being notified that they have the right to do so, the Commission discussed possible amendments to the law. Specifically, the Commission discussed the possibility of having a member become vested before they may purchase the time, veteran's not paying interest, retirement boards not notifying their veterans, and the length of time the member is given

to respond after the retirement boards notify them of their rights. The Commission decided to table this proposed legislation and revisiting this at the October Commission meeting with new language.

5. Emotional Distress Disabilities

Chairman Brown asked if any Commissioner wanted to make a motion. Commissioner Dooling made a motion to file the legislation regarding Emotional Distress Disabilities. Commissioner Machado seconded the motion and the motion was adopted.

6. Retirement Dispute Resolution Committee

The Commission discussed the extreme length of time it currently takes to process a case through DALA and CRAB, the elimination of retirement cases being processed through DALA and CRAB, and the ability to appeal decisions of the Retirement Dispute Resolution Committee. Commissioner McCarthy would be in favor of the intent of this legislation but is opposed to PERAC being involved with the Committee. The Commission decided to table this proposed legislation and revisiting this at the October Commission meeting with new language.

Administrative Sub-Committee Meeting Update

Chairman Brown reported that the Administrative Sub-Committee met on August 8, 2018 to discuss the Executive Director Search Process. He reported that the Sub-Committee created an Executive Director Search Committee and that he has been nominated to be the Chair of this Committee and the members are Commissioners Timothy Dooling and Kathy Fallon. The Chairman then briefly outlined the process to be undertaken.

Executive Director Search Committee Meeting Update

Chairman Brown reported that the Executive Director Search Committee met on August 16, 2018. The Chairman reported about the by-laws adopted by the Committee. He also informed the Commission that Ms. Carcia, Mr. Moitoso, and Ms. Boisvert have been appointed to assist the Committee. Mr. Connarton has offered to assist the Committee in anyway. The Committee thanked Mr. Connarton for his help thus far and for his flexibility during this process. The Chairman also thanked Commissioner Fitzpatrick for her assistance in creating the job description. He reported to the Commission that the Committee discussed various matters in detail including the ad posting, logistics, job description, selection, interviews, location, and timeline. Chairman Brown further stated that the Committee's next meeting is scheduled for Wednesday, September 26, 2018. The Committee will most likely present the finalists to the Commission in November 2018.

Commissioner McCarthy commented upon the job description, salary, deadline date, open meetings, and the number of finalists.

Chairman Brown responded to Commissioner McCarthy's comments and stated again that the Committee would forward the finalists to the full Commission.

Legal Update

Mr. Parsons thanked Ms. Corrigan, Mr. Hill, Mr. Charles, and Mr. Moitoso for their hard work that they have been performing above and beyond their normal course of duties. The Legal Unit has been working on the complex legal opinions, the legislative package, reaching out to the Attorney General on certain cases, and updating the policies as well as numerous forms.

Mr. Hill reported on the case of *Joseph O'Leary v. Lexington Retirement Board & PERAC*, CR-15-30. He stated that the Attorney General has allowed us to appeal this case in Superior Court, and that Mr. O'Leary has also filed an appeal in Superior Court.

Mr. Hill reported that PERAC has drafted a memorandum to the retirement boards recommending that the boards continue to follow the directions as outlined in PERAC Memo # 39/2012 regarding determining whether payments made in lieu of taking vacation days constitute regular compensation until all appeals have been completed in this matter.

Commissioner McCarthy briefed the Commission about the history of regular compensation as it pertains to buyback of unused leave.

Ms. Corrigan reminded the Commission that it should be careful what is discussed in open session as PERAC has appealed the *O'Leary* case. She also stated that people should be aware that depending on the court's final decision this matter could go back retroactively to 1946, which is what happened in the car cases.

Commissioner McCarthy stated that 150 union contracts allow this benefit to be considered regular compensation for many people.

Commissioner Machado stated that the individuals would still collect the money but the compensation may or may not be considered "regular compensation".

Commissioner McCarthy inquired about the history for the Salary Augmentation legislation in 2009.

Mr. Parsons explained the Enhanced Longevity Buy Outs ("ELBOs"). He continued that at that time the legislature passed a bill to honor all existing collective bargaining contracts out to 3 years and then decided that ELBOs should no longer be considered regular compensation on a date specific.

Commissioner McCarthy asked if the Firefighters' attorneys could offer some input.

Mr. Parsons suggested that the Commission be careful of the litigation matters to be discussed in open session, and that if any pending litigation matters are discussed the Commission would need to go into Executive Session.

Chairman Brown inquired if people would be made specifically aware of the pros and cons of this matter until the appeals are complete.

Mr. Parsons stated that the memorandum going out to the boards explains what could happen. He continued that currently many boards do not recognize these payments as regular compensation.

Mr. Connarton stated that currently many boards do not do the analysis as directed in PERAC Memo # 39/2012. He continued that one of the reasons this memorandum is scheduled to be distributed is due to the impact that could potentially occur depending on the final outcome of this case.

Further discussion ensued regarding retirees not having the ability to pay for a benefit, conducting the analysis as stated in PERAC Memo # 39, the possibility of litigation lasting 3 to 5 years, the possibility of another entity filing an amicus brief to Superior Court, and the possibility of making legislative changes.

Chairman Brown stated that it makes sense to distribute this memorandum which states that boards should maintain the status quo until the final decision or legislative solution occurs.

Mr. Moitoso reported on the case of *Kathleen Deschene v. Salem Retirement Board and PERAC*, CR-14-72 (CRAB 2018).

Ms. Corrigan updated the Commission on the *Vernava* case and that PERAC distributed Memo Number 12/2018 based on the decision. Since then t retirement boards Attorney Sacco filed a Declaratory Judgement Complaint with the Supreme Judicial Court in the matter of *Worcester Regional Retirement Board, Essex Regional Retirement Board, Franklin Regional Retirement Board, Stoneham Retirement Board and Peabody Retirement Board v. Public Employee Retirement Administration Commission*. These retirement boards are all represented by Attorney Sacco in this matter.

Mr. Parsons then reported on the decision from the Secretary of State. He recapped the case as a public records inquiry requesting all documentation between PERAC and the Attorney General in the *Vernava* matter. The Supervisor of Records found that PERAC has met its burden to withhold the records under the attorney-client privilege.

Legislative Update

Mr. DeVito reported that PERAC's bill, H. 19 regarding continuing education credits flexibility was ordered to a Third Reading in the House on May 21, 2018. He hopes that the bill will be reported out of Committee prior to the end of this Session. Mr. DeVito then notified the Commission that a number of special bills have been filed and adopted allowing public safety employees to work beyond the statutorily mandated retirement age of 65 years old. PERAC is monitoring these bills and suggesting changes as appropriate.

Actuarial Update

Mr. Lamenzo discussed the draft January 1, 2018 Commonwealth Actuarial Valuation Report. He stated that the FY19 appropriation under the schedule is \$2.61 billion and will increase by 8.94% each year until FY36.

As of January 1, 2018, the Commonwealth's Total Pension Obligation unfunded liability was approximately \$41.3 billion. That amount is the difference in the value of benefits owed and the value of assets available as of that date. This represents an increase of \$1.72 billion from the Unfunded Actuarial Liability (UAL) as of January 1, 2017.

Mr. Lamenzo reported that there are several issues regarding Boston teachers'. These include the number of active members and the reported pay, terminated employees, creditable service for some employees, retroactive payments from a recent contract settlement, and leave of absences. First, we originally removed some members from active status due to no reported creditable service in 2017 but found that these members were active. Second, we found there was a retroactive contract settlement in 2017. We will make an adjustment to the valuation results prior to finalizing the report. He expects the Commonwealth funded ratio to decrease about 0.1% due to these changes. Mr. Lamenzo has discussed the issues with Boston Retirement Board and will work with them to resolve these issues for 2019. He does not expect that these changes will hold up the distribution of the report.

Mr. Lamenzo then discussed a fairly new section of the Executive Summary which identifies some examples of potential "Risks" resulting from actual future experience deviating from actuarial assumed experience. He also stated that this section would expand in the future.

Mr. Lamenzo stated that he is comfortable with the Valuation Report and would notify the Commission if there was more significant change than expected due to the Boston teachers' issue.

Commissioner McCarthy made a motion to adopt the draft January 1, 2018 Commonwealth Actuarial Valuation Report and to distribute accordingly. Commissioner Machado seconded the motion and the motion was unanimously adopted.

Audit Update

Ms. Shea reported that the auditors are currently auditing the Chicopee, Franklin Regional, Lexington, Plymouth County, and Massachusetts Teachers' Retirement Systems. She then reported that the audit reports for Berkshire Regional (no findings), Blue Hills, Medford and Springfield (no findings), in addition to the Fairhaven, Gloucester, and Marlborough six-month follow-up reports were posted on the PERAC Web Page since the last Commission meeting. Ms. Shea then reported on the respective findings.

Ms. Shea notified the Commission that Pension Technology Group (PTG) recently made a presentation to the Audit Unit. PTG is the company that provides software for the majority of the retirement boards to process their monthly retirement payments to the retirees. She stated that this meeting was very informative.

Executive Director's Report

Mr. Connarton thanked the Commission and Staff for the support he and his family have received during a very difficult time.

Chairman Brown offered condolences to Mr. Connarton and his family on behalf of the Commission.

Mr. Connarton congratulated Commissioner Fitzpatrick for her nomination for the National Leadership Trailblazer Award.

Mr. Connarton reported that 308 individuals have registered for the Emerging Issues Forum being held on September 13, 2018 at the College of the Holy Cross in Worcester.

Mr. Connarton then reported that the Administrators Seminar was held on August 16, 2018 in Northampton with 31 board members and administrators in attendance. He then reported that the next Administrators Seminar will be held on October 18, 2018 in Framingham.

Mr. Connarton briefly made note of an interesting editorial which refers to pension forfeiture in the Boston Globe.

Commission Travel

Mr. Connarton notified the Commission about the upcoming 2018 Fall MACRS Conference being held in Springfield, MA from September 30 – October 3, 2018 should there be any interest in attending.

Commissioner McCarthy made a motion to grant permission for any interested Commissioners and staff to attend the above conference. Commissioner Machado seconded the motion and the motion was unanimously adopted.

Mr. Connarton notified the Commission about the upcoming 2018 Annual Public Safety Conference being held in Las Vegas, NV from October 28-31, 2018 should there be any interest in attending.

Commissioner McCarthy made a motion to grant permission for any interested Commissioners and staff to attend the above conference. Commissioner Machado seconded the motion and the motion was unanimously adopted.

Other Business

Chairman Brown stated that the next Commission meeting will be held on October 10, 2018 at 11:00 AM.

Executive Session

At 1:30 PM Chairman Brown called for a vote of the Commission to go into Executive Session to discuss and deal with matters the disclosure of which would result in an unwarranted invasion of an individual's privacy. The subjects of the issue at hand have been notified in writing of this meeting and have not asked that it be held in open session. A roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, Robert McCarthy YES, and the motion was adopted.

Chairman Brown announced that the Commission will reconvene in open session after the completion of the Executive Session, to ratify its vote, and then adjourn.

A roll call vote was taken in Executive Session to return to open session and to adjourn the Executive Session at 1:43 PM.

Open Session

Commissioner Fitzpatrick excused herself during Executive Session.

Commissioner McCarthy made a motion to ratify the vote from Executive Session that the following retirement board members may no longer serve as members on a retirement board governed by G.L. c. 32 for their failure to file their 2017 SFIs, pursuant to G.L. c. 32, Section 20C, effective September 12, 2018:

James Castro	Attleboro Retirement Board
Gerald Hennessy	Milford Retirement Board
John Reilly	Hull Retirement Board
Elizabeth Braccia	Greenfield Retirement Board
James Destino	Gloucester Retirement Board

Commissioner Fallon seconded the motion and it was unanimously adopted.

Other Business

Commissioner McCarthy made a motion to adjourn the meeting. Commissioner Fallon seconded the motion and the motion was adopted. The meeting adjourned at 1:45 PM.

Commission Meeting Documents

Commission Agenda for the meeting of September 12, 2018

Commission Minutes from July 11, 2018

Joint Legislative – Disability Sub-Committee

Joint Legislative-Disability Sub-Committee Meeting August 8, 2018 Recap

Education Credits Flexibility

H4555 Pension Forfeiture

Recovery of a Member's Pension in Overearnings Cases

Supplemental Payments taken in Conjunction with Workers' Compensation

Modification of Retirement Allowances

Veterans' 180 Day Buyback Requirement

Emotional Distress Disabilities

Retirement Dispute Resolution

2019-2020 Legislative Summary

Administrative Sub-Committee Update

Administrative Sub Committee Meeting August 8, 2018 Recap

Legal Update

Legal cases:

Joseph O'Leary v. Lexington Retirement Board & PERAC, CR-15-30 (CRAB 2018)

Kathleen Deschene v. Salem Retirement Board and PERAC, CR-14-72 (CRAB 2018)

Worcester Regional Retirement Board, Essex Regional Retirement Board, Franklin Regional Retirement Board, Stoneham Retirement Board and Peabody Retirement Board v. Public Employee Retirement Administration Commission – Declaratory Judgment Complaint

Other information:

FOIA Decision Number SPR18/1259 from the Secretary of State

Legislative Update

Monthly Legislative Agenda and bullet points outlining legislation

Audit Update

Recent PERAC audits and six-month follow-up audits

Compliance Update

The Compliance Education chart

Executive Director's Report

Updated Staff Activities Memo

Emerging Issues Forum Agenda

Administrators Forum Agenda

Media Articles of Interest

Globe – Editorial regarding Pension Forfeiture

Commission Travel

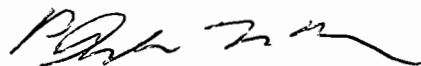
2018 Fall MACRS Conference Agenda

2018 Annual Public Safety Conference Agenda

Materials Distributed at the Meeting

January 1, 2018 Draft Commonwealth Actuarial Valuation Report

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission