

Hampshire County Retirement System

Memo to Advisory Council Members

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To: Advisory Council Members

From: Mary Baronas, Administrator

RE: CHAPTER 176 OF THE ACTS OF 2011, AN ACT PROVIDING FOR PENSION REFORM AND BENEFIT MODERNIZATION –NEW MANDATES FOR RETIREMENT BOARD MEMBERS AND RETIREMENT BOARD MEMBER COMPENSATION

Chapter 176 of the Acts of 2011 creates several new sections in Chapter 32 with new mandates for retirement board members. In recognition of increased mandates for retirement board members, Chapter 176 also provides for an increase to Retirement Board Member Compensation up to \$4,500 per year. Acceptance of Retirement Board Member Compensation does require a vote of the Advisory Council and will be a topic of discussion for the next Advisory Council Meeting.

New mandates for Retirement Board Members include but are not limited to the following:

1) Subdivision 7 of Section 20. Retirement Board Member Training.

(7) Retirement Board Member Training.- During each full term of service retirement board members shall undertake 18 hours of training; provided, however, that not less than 3 hours of such training shall take place each year and not more than 9 hours may take place in any single year; provided, however, that nothing in this subdivision shall prohibit such retirement board members from undertaking more than 18 hours of training.

Such training shall consist of 9 hours sponsored by the commission, which shall include, at a minimum, the topics of fiduciary responsibility, ethical conduct and conflict of interest and 9 hours of training on topics prescribed by the commission provided by the Massachusetts Association of Contributory Retirement Systems or other local, state, regional and national organizations recognized by the commission as having expertise in retirement issues of importance to retirement board members or other entities, as the commission may determine.

The commission shall arrange for at least 18 sessions during each year for members to complete this requirement. In addition, the commission shall schedule additional sessions or otherwise make accommodations to ensure that members are afforded the maximum opportunity to complete this requirement.

The commission shall annually provide retirement boards with a statement of completion of education form on or before December 31. The board shall provide the forms to their members. The form shall set forth the training as required by this subdivision the member has undertaken during that year. Board members shall submit the completed form to the

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commission by January 31 of the year following. The commission shall annually provide the member with a summary of the member's status regarding the completion of this requirement by March 1.

Failure to successfully complete the requirements of this subdivision shall prohibit a board member from serving beyond the conclusion of the term in which the failure took place. If the non-complying member is an ex-officio member or a second member, of a board the appointing authority for the second member shall appoint a different individual to serve on the board; provided, however, that the replacement of an ex-officio member shall be an individual experienced in the field of finance or auditing; and provided further, that in a regional retirement system non-complying members shall be replaced in the same manner as is set forth for the selection of the members.

Each retirement board shall notify all board members and prospective board members of the requirement to complete education requirements at the time of receiving information about seeking election to a retirement board or prior to being appointed to a retirement board.

The commission shall annually notify board members of the requirement to complete continuing education.

2) Section 20C. *Retirement Board Member Statement of Financial Interest.*-

(a) Every member of a retirement board shall file a statement of financial interests for the preceding calendar year with the commission: (i) within 30 days of becoming a member of a retirement board; (ii) by May 1 of each year thereafter that the person is a member of a retirement board; and (iii) by May 1 of the year after the person ceases to be a member of a retirement board.

(b) The commission shall, upon receipt of a statement of financial interests under this section, issue to the person filing the statement a receipt verifying the fact that a statement of financial interests has been filed and a receipted copy of the statement.

(c) No member of a retirement board may continue in the member's duties unless the member has filed a statement of financial interests with the commission as required by this section.

(d) The statement of financial interests filed under this section shall be on a form prescribed by the commission and shall be signed under penalty of perjury by the reporting person.

(e) A reporting person shall disclose, to the best of the person's knowledge, the following information for the preceding calendar year, or as of the last day of the year with respect to the information required by clauses (2), (3) and (6); provided, however, that the person shall also disclose the same information with respect to the person's immediate family; and provided further, that no amount need be given for the information about the reporting person's immediate family:

(1) the name and address of, the nature of association with, the share of equity in, if applicable, each business with which the person is associated;

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(2) the identity of all securities and other investments with a fair market value of greater than \$1,000 which were beneficially-owned, not otherwise reportable hereunder;

(3) the name and address of each creditor to whom more than \$1,000 was owed; provided, however, that obligations arising out of retail installment transactions, educational loans, medical and dental expenses, debts incurred in the ordinary course of business and any obligation to make alimony or support payments, shall not be reported; and provided further, that such information need not be reported if the creditor is a relative of the reporting person within the third degree of consanguinity or affinity;

(4) the name and address of the source and the cash value of any reimbursement for expenses aggregating more than \$100 in the calendar year if the recipient is a member of a retirement board and the source of the reimbursement is a person having a direct interest in a matter before the retirement board of which the recipient is a member;

(5) the name and address of the donor and the fair market value, if determinable, of any gifts aggregating more than \$100 in the calendar year, if the recipient is a member of a retirement board and the source of the gift is a person having a direct interest in a matter before the retirement board of which the recipient is a member;

(6) the name and address of the source and the fair market value of any honoraria aggregating more than \$100 if the recipient is a member of a retirement board and the source of such honoraria is a person having a direct interest in a matter before a retirement board;

(7) the name and address of any creditor who has forgiven an indebtedness of over \$1,000 and the amount forgiven if the creditor is a person having a direct interest in a matter before a retirement board; provided, however, that no such information need be reported if the creditor is a relative within the third degree of consanguinity or affinity of the reporting person, or the spouse of such a relative; and

(8) the name and address of any business from which the reporting person is taking a leave of absence.

Nothing in this section shall be construed to require the disclosure of information, which is privileged by law.

Failure of a reporting person to file a statement of financial interests within 30 days of receipt of the notice in writing from the commission which states in detail the deficiency and the penalties for failure to file a statement of financial interests or the filing of an incomplete statement of financial interests after receipt of a notice shall result in the removal of the reporting person from the board and the reporting person shall not serve on a retirement board established under this chapter, under chapter 34B or the retirement board of the Massachusetts Water Resources Authority; provided, however, that, if the reporting person has filed an incomplete statement of financial interests the removal shall be stayed upon the filing of an appeal under subdivision (4) of section 16. If the non-complying member is an ex-officio member, the member's appointing authority shall appoint a different individual to serve on the

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board or if the member is directly elected by the people, a different individual shall be appointed to serve on the board by the mayor, county commissioners or board of selectman as the case may be.

- 3) Certification of compliance with chapter 32, 840 CMR's and chapter 268A. (Forms not yet available)

"Each member of a retirement board established under this chapter shall upon the commencement of the member's term file with the commission a statement acknowledging the member is aware of and will comply with the standards set forth in chapter 268A, this chapter and rules and regulations promulgated under this chapter."

- 4) Collusion/Fraud certification (PERAC memo #22/2012)

Each retirement board member must certify that "to the best of the member's knowledge and belief, this proposal has been made and submitted in good faith and without collusion or fraud with any other person." The retirement board member must file this certification with the Commission for any procurement of "...investment, actuarial, legal and accounting services."

Collusion and fraud can take place in many ways. One of the most insidious is a scenario where vendor A suggests to vendors B and C, who may be expected to respond to an RFP, that vendors B and C refrain from submitting a bid in exchange for vendor A not submitting a bid in a separate procurement process initiated by the same or another retirement board. We urge retirement board members to be wary about this and other possible methods by which fraud may be committed or collusion may take place. Retirement board members should seek specific assurances from vendors and prospective vendors during the procurement process regarding specific scenarios relating to this issue rather than simply relying on the assertions of the vendor.

- 5) *Retirement Board Members Compensation.*-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system.