

Hampshire County Retirement System

Memo to Advisory Council Members

May 10, 2012
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May 10, 2012

To: Advisory Council Members

From: Mary Baronas, Administrator

RE: ADVISORY COUNCIL MEETING – JUNE 14, 2012 – CORRECTION OF MAY 7, 2012

A MEETING OF THE ADVISORY COUNCIL IS SCHEDULED FOR **JUNE 14, 2012 AT 2 P.M.** TO BE HELD IN THE AUDITORIUM OF THE **HATFIELD TOWN HALL**, MAIN STREET, HATFIELD MA.

AGENDA WILL INCLUDE:

- PUBLIC HEARING ON PROPOSED SUPPLEMENTAL REGULATIONS
- DISCUSSION AND VOTE RELATIVE TO INCREASING MINIMUM PENSION FOR SURVIVORS OF MEMBERS WHO DIED IN SERVICE FROM **\$3,000 (\$250/mo) TO \$6,000 (\$500/mo)** **(CORRECTION)**
- DISCUSSION AND VOTE RELATIVE TO RETIREMENT BOARD MEMBERS COMPENSATION
- DISCUSSION RELATIVE TO PROVISIONS OF C. 176 OF THE ACTS OF 2011, OTHERWISE KNOWN AS PENSION REFORM III.

PLEASE MARK YOUR CALENDARS TO ATTEND MEETING. INFORMATION MATERIALS ARE ENCLOSED AND WILL ALSO BE AVAILABLE ON WEBSITE - www.hampshireretirementma.org.

IF YOU HAVE QUESTIONS ON AGENDA OR INFORMATION MATERIALS, PLEASE CALL ME AT (413) 584-9100 OR EMAIL ME AT mary@hampshireretirementma.org

[PLEASE REPLACE PREVIOUS MEMO OF MAY 7, 2012](#)

Hampshire County Retirement System

Memo to Advisory Council Members

May 7, 2012

May 7, 2012

To: Advisory Council Members

From: Mary Baronas, Administrator

RE: PROPOSED SUPPLEMENTAL REGULATIONS

OVER THE YEARS THERE HAVE BEEN NUMEROUS CHANGES TO CHAPTER 32 BY THE LEGISLATURE AND BY CASE LAW, WHICH HAVE RENDERED OUR SUPPLEMENTAL REGULATIONS OUT-OF-DATE AND/OR IN NEED OF CLARIFICATION. FOR THAT PURPOSE THE HAMPSHIRE COUNTY RETIREMENT BOARD HEREIN PROPOSES TO IMPLEMENT THE ATTACHED SUPPLEMENTAL REGULATIONS.

FOR THE MOST PART THE REVISIONS TO THE SUPPLEMENTAL REGULATIONS ARE NECESSITATED BY STATUTE OR ARE CLARIFICATIONS OF EXISTING RULES.

PLEASE REVIEW THE ATTACHED. PLEASE DISTRIBUTE COPIES TO OTHER ADMINISTRATIVE DEPARTMENTS AND ANY OTHER APPROPRIATE OR INTERESTED PARTIES IN YOUR TOWN/DISTRICT/AUTHORITY.

PERIOD FOR ACCEPTANCE OF WRITTEN COMMENTS: **MAY 7, 2012 TO JUNE 14, 2012**. WRITTEN COMMENTS SHOULD BE SUBMITTED TO THE HAMPSHIRE COUNTY RETIREMENT BOARD, 99 INDUSTRIAL DRIVE, NORTHAMPTON, MA 01060 OR MAY BE SUBMITTED BY EMAIL TO INFO@HAMPSHIRERETIREMENTMA.ORG.

PUBLIC HEARING SCHEDULED FOR **JUNE 14, 2012 AT 2:00 PM AT HATFIELD TOWN HALL** (AS PART OF ADVISORY COUNCIL MEETING)

Proposed Supplemental Regulations – May 7, 2012

MEMBERSHIP ELIGIBILITY for Employees of Governmental Units covered by the Hampshire County Retirement System.

- Any employee, elected, appointed or classified otherwise, whose annual salary for the position is less than \$5,000 shall not be eligible for membership in the Hampshire County Retirement System.
 - Exception: employees holding multiple positions with the same employer and who otherwise qualify as members of the Hampshire County Retirement System may be eligible for membership when combined salary from multiple positions exceed \$5,000.
- Regular Permanent Employees, who are employed on a regular schedule without restriction as to the duration of employment in a position that is expected to last or remain without essential change and who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per annum are required to become members of the Hampshire County Retirement System.
- Regular Temporary or Seasonal Employees, who are employed on a regular schedule consisting of at least 20 hours per week and whose regular salary is at least \$5,000 per annum, but whose appointment is for less than 6 consecutive calendar months are not eligible to become members unless reappointed such that total service exceeds 6 consecutive calendar months. Temporary employees who subsequently become eligible for membership may be eligible to purchase prior non-membership service.
- Non-Regular, Intermittent, Per Diem, Substitute Employees, who are employed on a per diem, fee-based and/or as needed basis and do not have regular work schedules consisting of at least 20 hours per week are not eligible for membership regardless of amount of compensation or salary.
- Per diem, hourly, or “non-benefited” employment does not bar an individual from membership provided employment is in the regular course of business for which the individual works a regular schedule of at least 20 hours per week for a period expected to exceed 6 consecutive months, and for which the individual receives regular compensation based on hours worked and is at least \$5,000 annually.
- Consultants, Independent Contractors, Professional Service Providers or similar types of contract employment are not eligible for membership. For the purposes of membership eligibility, the Board retains full jurisdiction in determining whether service is rendered as a regular employee eligible for membership or as a contract employee ineligible for membership. [**statutory requirement*]
- Student Employees, who are not employed on a regular schedule consisting of at least 20 hours per week for a period exceeding 6 consecutive calendar months and who do not receive regular compensation of at least \$5,000 are not eligible for membership.
- School Teaching Staff who are employed in a teaching positions are not eligible for membership regardless of their eligibility for Massachusetts Teachers Retirement System. Service as a Part-Time Teacher, Substitute Teacher, Tutor, Coach, or After-School Programs or other teaching positions are not eligible for membership and creditable service in the Hampshire County Retirement System.

- Appointed Officials compensated by stipend greater than \$5,000 per annum which is not quantified by hours worked or amount of work performed will be presumed to work hours/wk based on Annual salary/minimum wage.
- Elected Officials whose salary is at least \$5,000 per annum have the option to become members of the system provided application for membership is made within 90 days of assuming elected office. Elected Officials who do not apply for membership within 90 days, will not subsequently be eligible for membership until re-elected or otherwise qualifying for membership based on other criteria. [**statutory requirement*]
- The Board shall retain full jurisdiction to determine the eligibility of employees for membership.

CREDITABLE SERVICE for Members of Hampshire County Retirement System.

- Pursuant to C. 21 § 26 of the Acts of 2009, creditable service will not be granted for any service occurring on or after July 1, 2009, for which annual compensation is less than \$5,000 per year regardless of whether position is elected, appointed or classified otherwise.
- Creditable Service is granted in full months only. A month of creditable service is calculated from the day of month service began to same day of next and succeeding months. Creditable Service is not granted for partial months.
- At no time shall creditable service be granted that exceeds the actual calendar months of service. Creditable service shall not be granted for any period after date of retirement or termination of service.
- Creditable service shall not be granted for any period in which services were not performed and regular compensation was not paid except as otherwise authorized by statute (workers' compensation, military service leave, etc.)
- School employees who work on a full 10 month school year contract will be granted creditable service of 12 months up to but not to exceed total calendar months from date of appointment to date of termination or date of retirement. School employees who have worked less than a full school year shall be prorated based on the calendar months worked.
- School employees who are granted creditable service based on 10 month school year equivalent to 12 calendar months shall also have their average high 3 year salary calculated on same basis (i.e. school year vs. calendar year).
- Full- time equivalency is defined as a minimum of 35 hours/week for all positions.
- All service that is less than 35 hours/week will be prorated against the full-time equivalency of 35 hours/week. At retirement and only at retirement, if the highest average 3 year salary represents less than a 35 hours/week position, an adjustment will be made to creditable service based on the equivalency of the highest average 3 year salary used in the retirement calculation.

SERVICE PURCHASES

General Rules

- Although creditable service may be purchased for prior membership or qualifying non-membership service, membership rights applicable to prior periods cannot be purchased.
- All requests for service purchase must be approved by the Hampshire County Retirement Board.
- All service purchases must be completed prior to any effective retirement date.
- No service purchase will be approved without adequate and acceptable documentation verifying prior service. The Hampshire County Retirement Board retains full jurisdiction in determining acceptable documentation. (Personal affidavits based on the memory of individuals is not adequate or acceptable documentation)
- Creditable Service shall be calculated and granted based on regulations and rules applicable at time of purchase, not at time of service. Although creditable service may be purchased, membership rights applicable to prior periods cannot be purchased.
- Creditable Service shall not be granted unless and until make-up payments are received in full.
- Purchases not completed within 1 year of approval must be resubmitted and are subject to recalculation of creditable service based on rules applicable at time of purchase.
- All service purchases must be approved and paid as lump sum payment prior to any retirement date.

Purchase of Prior Membership Service (Re-deposit of withdrawal of member contributions)

- Members who had prior membership service with HCRS or with another retirement system covered by MGL c.32, for which the member terminated membership by taking a refund of contributions, may purchase prior membership service by making application to the Retirement Board.
- Members whose prior service was with HCRS will be granted creditable service based on rules and regulations applicable at the time of re-purchase.
- Members whose prior service was in another retirement system will be granted creditable service based on approval and liability acceptance of former retirement system for whom service was provided.
- Former Members who terminated membership by taking a refund of contributions and who are now members of another retirement system covered by MGL c.32, will be allowed to re-purchase prior

membership service through their current retirement system. Creditable service will be granted based on rules applicable at time of re-purchase.

- Prior Membership Service, if purchased within one year of new membership, will be charged “buyback interest rate” of one-half of the actuarial assumed rate at time of purchase.
- Prior Membership Service, not purchased within one year of new membership will be charged the interest at the actuarial assumed rate at time of purchase.
- The Hampshire County Retirement Board retains full jurisdiction for determining the eligibility and amount of creditable service to be granted for all service purchases.

Purchase of Non-Membership Service (Make-up of prior service as non-member)

- Purchase of non-membership service is limited to current members and former members of HCRS. Members of other retirement systems covered by MGL c. 32, who never became members of HCRS, will not be allowed to purchase non-membership service.
- Purchase of non-membership service for which service was rendered to employer not covered by HCRS will be eligible for purchase based on approval and acceptance of retirement board of employer under which service was rendered.
- Purchase of non-membership service will not be allowed without acceptable documentation of service and compensation paid. It shall be the sole responsibility of the member to obtain, and provide to the Board, verification of this past service rendered, including but not limited to payroll records indicating the amount of compensation received and amount of hours worked. In the event that any or all of such original documentation is unavailable, the Board may exercise its discretion pursuant to M.G.L. c. 32, § 20(5)(c)(1), on a case by case basis, to accept alternative documentation to verify said service and compensation. The Board shall retain full jurisdiction relative to what constitutes acceptable documentation.
- Creditable service shall be granted based on rules applicable at the time of purchase and veracity of documentation provided. The Board shall retain full jurisdiction relative to the amount of creditable service to be granted for non-membership service.
- Non-membership service for which the employer paid contributions to Social Security or made contributions to another qualified retirement plan is not eligible for purchase. Allowing such purchase would require the employer to fund two retirements for the same period of employment. If, however, the employee had contributed to an OBRA plan and the employer did not make any contributions to it or another retirement plan, purchase of such non-membership service will be allowed.

- Seasonal, Intermittent, Per Diem, Substitute, Fee-based, and services performed as a student are not eligible for purchase. Service performed as an independent contractor or as an employee of another organization or business are not eligible for purchase.
- Service provided as a Contract Employees, Independent Contractors and other Professional Service Providers is not eligible for purchase.
- Service for which an employee was compensated less than \$5,000 is not eligible for purchase.
- Prior Non-Membership Service, if purchased within one year of membership, will be charged “buyback interest rate” of one-half of the actuarial assumed rate at time of purchase.
- Prior Non-Membership Service, not purchased within one year of membership will be charged the interest at the actuarial assumed rate at time of purchase.

Purchase of Military Service

- In accordance with C.32 § 4(h)(4) Application for Purchase of Military Service must be made within 180 days of receipt of Notification of Eligibility. Failure to make application within 180 days of notification of eligibility or failure to provide documentation of Military Service may result in loss of benefit.
- Military Service for the same period of time during which credit has already been granted under c. 32 § 4(h)(1) cannot be purchased.
- Creditable service shall not granted for more than four years of Military Service
- Purchase of Military Service must be made as a lump-sum payment. Creditable Service shall not be granted unless and until makeup payments have been made for each year of creditable service sought in the amount equal to the ten percent of the regular annual compensation of the member when said member entered or re-entered the retirement system.

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May 7, 2012

To: Advisory Council Members

From: Mary Baronas, Administrator

RE: CHAPTER 176 OF ACTS OF 2011 - INCREASING MINIMUM OPTION D BENEFIT INFORMATION

Chapter 176 of the Acts of 2011 – Increased the minimum pension payable to an eligible spouse receiving an Option D benefit to \$500 per month for State and Teacher retirees. As a local option, Regional Retirement Boards can also increase the minimum monthly benefit (currently \$250) to \$500 per month (\$6,000 annual) by vote of the Retirement Board and by vote of the Regional Retirement Advisory Council. This issue will be presented at an Advisory Council meeting being planned for June 2012.

What is Option (d) benefit?

An Option (d) benefit is a Member-Survivor Allowance, a lifetime monthly benefit, paid to a single eligible beneficiary in the event that a member dies prior to retirement. It may also be referred to as a “Member-in-Service Death Benefit”.

Who is an eligible beneficiary under Section 12(2) Option (d)?

Only one person may receive the Option D benefit (in order of superior rights to benefit)...

1. Spouse to whom member had been married at least 1 year and were living together on date of death. A spouse meeting this criteria automatically has superior rights to the Option D benefit and may chose to receive such benefit regardless of any other named beneficiary.
2. If there is no eligible spouse, then the Legal guardian of any minor child or children will be eligible to receive the Option D benefit as long as the child qualifies as an eligible dependent.
3. If the member has no eligible spouse or minor children with superior rights, then an otherwise qualified beneficiary, specifically named by the member, may receive the Option D benefit. A named Option D beneficiary is restricted to a spouse, child, former spouse who has not remarried, parent, sibling of the member.

(Alternatively, in the event that a member dies before retirement and there is no eligible Option D beneficiary or the eligible spouse chooses not to take the Option (d) benefit, then a lump-sum distribution of the member’s contributions plus interest is made to one or more beneficiary(s) named

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under Section 11(2)(c) or if none, to the member's estate. If an Option D benefit is to be paid, there is no distribution under 11(2)(c.)

How is the Option D benefit calculated?

The amount of the member-survivor benefit is calculated as the member's option C allowance as if the member retired on date of death. (*Prior to February 1, 2000; amount was 2/3rds of member's option C allowance.)

Age factor X Service X Average 3-yr Salary X Option C factor = Option D benefit

- If the member is under the age of 55 (or age 60)* at the time of death, the group/age factor for age 55 (or age 60) is used in the calculation. (*For current members age 55 is applicable, for individuals becoming member on or after April 2, 2012 age 60 is applicable.)
- If the member is over the age of 55 (or age 60), the group/age factor will be equivalent to the member's actual age at time of death.
- Option C factor is based on both the member's and beneficiary's actual ages at time of death.

When and how does the minimum monthly benefit apply?

Under certain conditions the minimum monthly benefit is \$250/mo (or if accepted \$500/mo) applies. Minimum monthly benefit does not apply unless all five of the following conditions are met.

1. The member-survivor beneficiary must be a spouse to whom member had been married for at least 1 year and with whom the member was living on the date of death
2. The member was an active member-in-service (actively employed) on date of death.
3. The member had at least 2 years of creditable service on date of death.
4. "The total annual allowance ...shall at no time be greater than the annual rate of regular compensation, payable to such member on the date of death of such member."
5. The member's annual rate of compensation on date of death was at least \$3,000 per year (\$6,000 if increased minimum is accepted).

Prior to July 1, 2000, upon remarriage of survivor, minimum monthly benefit provision terminated and benefit was recalculated. On July 1, 2000, Chapter 159 of the Acts of 2000, eliminated the "remarriage penalty" on a prospective basis only. Surviving spouses who had remarried prior to July 1, 2000 and for

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whom the minimum benefit had already been terminated due to remarriage were not entitled to be adjusted back to the minimum benefit.

Impact of Chapter 176 of the Acts of 2011

Chapter 176 of the Acts of 2011 – Increased the minimum pension payable to an eligible spouse receiving an Option D benefit to \$500 per month for State and Teacher retirees. As local option, Retirement Boards can also increase minimum monthly benefit (currently \$250) to \$500 per month.

Hampshire County Retirement System:	Count	Annual Benefit
Total Current Option D recipients	72	\$455,389.
Calculation exceeds minimum \$500/mo. (19 spouses, 2 non-spouse)	21	
Spouses not receiving minimum due to remarriage prior to 7/1/2000	12	
Member Salary Cap less than \$6,000	9	
Eligible for partial adjustment to salary cap (< \$6,000)	3	
Total eligible for increase to \$500/mo or salary cap whichever is lower	33	\$39,063.
Year 1 Cola Increase (3%)		\$1,172.

On average survivors eligible for increase currently receive benefits of \$392/mo. Average increase is \$98/mo. (see attached)

Chapter 32, section 12(2) Option (d) as amended by St. 2011 c. 176 §29 §30

... “The normal monthly member-survivor allowance provided for under this option to a spouse of a deceased member shall not be less than \$250 or \$500 a month, whichever is applicable to such spouse, subject to the provisions of paragraph (e) of section one hundred and two; provided, however that the deceased member was a member in service as described in subparagraph (i) of paragraph (a) of subdivision (1) of section three on the date of death and that the member had not less than two full years of creditable service and had been married to such spouse for not less than one year; and provided, further, that such member and such spouse were living together on the date of death of the member, or that the board finds that they were living apart for justifiable cause other than desertion or moral turpitude on the part of such spouse.

Beginning April 2, 2012, the normal monthly member-survivor allowance provided for under this option to a spouse of a deceased member shall not be less than \$500 for members of the state teachers’ and state employees’ retirement system. This paragraph shall take effect for the members of a retirement system of any other political subdivision by a majority vote of the board of such system and by the local legislative body. For the purpose of this paragraph, a vote of the legislative body shall take place in the following manner: in a city, by a vote of the city council subject to its charter; in a town, by a vote at a town meeting; in a county, by a vote of the county retirement board advisory council; in a region, by a vote of the regional retirement board advisory council; in a

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district, by a vote of the district members; and for an authority, by a vote of its governing body. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commission.” ...

The Hampshire County Retirement Board will ask the Advisory Council Members to consider the acceptance of St. 2011 c. 176 § 29 §30 at the next Advisory Council Meeting.

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May 7, 2012

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.

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May 23, 2012

To: Advisory Council Members

From: Mary Baronas, Administrator

RE: PENSION REFORM ISSUES – PERAC ISSUES NEW DOCUMENTATION REQUIREMENTS FOR EMPLOYERS

For the purpose of monitoring compliance with Pension Reform II (Chapter 21 of Acts of 2009), and the most recent Pension Reform III (Chapter 176 of Acts of 2011), PERAC (Public Employee Retirement Administration Commission) has created new directives, forms and documentation requirements for retirement boards and employers.

I. **Retirement Boards to Collect and Maintain Collective Bargaining Agreements and Employment Policies**

To monitor compliance with Chapter 21 of the Acts of 2009, which amended the definition of “Regular Compensation”, chapter 176 of the Acts of 2011 requires *Retirement Boards to Collect and Maintain Collective Bargaining Agreements*.

Specifically, *sections 37 and 54 of Chapter 176 require “ all employers of members of a Retirement System to provide the Retirement Board with copies of collective bargaining agreements pertaining to the members of the System. The Retirement Board is to review the agreements for consistency with Chapter 32 and to maintain copies of all agreements. The Retirement Board is to maintain a copy of all collective bargaining agreements and make them available to the Commission for review upon request. These sections became effective on February 16, 2011”*. Although the term “collective bargaining agreements”, typically connotes only union contracts, PERAC interprets the legislative intent to include all employment contracts (individual and non-union as well as union agreements) between the employer and any member of the retirement system.

PERAC auditors (“compliance officers”) are focusing on regular monitoring, documentation, and compliance of employers’ payrolls, submissions of retirement contributions and calculations of average 3-year salary to exclude compensation from retirement calculations that does not meet the specific criteria/definition of “regular compensation”. To be considered “regular compensation” it must be, 1) actually a payment made directly to the member; 2) is remuneration for services actually rendered; 3) is ordinary, normal, recurrent, repeated, and of indefinite duration; 4) is made pursuant to an official written policy of the employer or to a collective bargaining agreement; and 5) is made on a non-discriminatory basis and generally available for

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employees who are similarly situated relative to the purpose of the payment. The focus here being #4 – pursuant to an official written policy.

II. Employer verification of Payback of Shift Swaps

Recently there were newspaper articles and editorials focusing attention on “shift substitution”. There was a highly controversial case in Boston involving a member who retired without performing service to pay back shift swaps. To receive creditable service and include compensation received as part of pensionable salary, there is a requirement that services must be performed. Since the member did not perform service for the swapped shifts, creditable service and the corresponding compensation received was excluded from the member’s pension calculation. To prevent similar situations from occurring, PERAC has ordered that in departments where shift swapping is allowed, employers must certify that swapped shifts have been repaid by the member and said repayment was in the form of performed service. Attached is PERAC Memo #30/2011, PERAC Memo #17/2012 and PERAC form Employer’s Certification of Creditable Service and Regular Compensation in Connection with Shift Substitution.

III. Monitoring Limitations on Post-Retirement Employment in the Public Sector and Increase to Monetary Limit After First Year in Retirement.

Under Chapter 32, section 91, Retired Members may return to public sector employment with strict hour and earnings limitations. A retired member may be employed up to a maximum of 960 hours per calendar year and may be compensated up to a maximum earnings amount that is the difference between his pension amount and the salary being paid for the position from which he retired. In other words a retired member earnings when added to his pension cannot exceed what he would earn had he continued working.

Effective April 2, 2012, Chapter 176 of the Acts of 2011 (sections 50 & 51) increases the maximum earnings limit for retired members after the first year in retirement. The limitation on the hours that a retiree may be employed remains a maximum 960 hours per calendar year. In the first year of retirement, the limitation on earnings remains the same (i.e. difference between pension and salary of position from which retired). But after the first year of retirement a retiree may earn up to an additional \$15,000 (i.e. the maximum earnings of the difference between his pension and salary of position from which retired plus \$15,000). The limitation on hours remains a maximum 960 hours per calendar year.

Hampshire County Retirement System

Memo to Advisory Council Members

May 23, 2012
Page 3 of 3

If the retiree reaches the 960 hour limitation prior to reaching the new excess earnings limitation, such retiree must cease working even though the excess earnings limitation has not been exceeded. It must be noted that the retiree can only earn the maximum amount with the new \$15,000 increase, if the retiree does not exceed the maximum amount allowed within the 960 hour limitation.

Please note that the earnings limitations for disability retirees contained in G.L. c. 32, § 91A (difference between pension and current salary plus \$5,000) have not changed. The increase in earnings limitation does not apply to disability retirees.

While it is the Retired Members responsibility to comply with the restrictions on Post-Retirement Employment, it is also the Treasurer's responsibility to stop payment to a retired member when limitations have been reached. And if overpayment has been made, it is the Treasurer's responsibility to recover any overpayment. If the Treasurer fails to recover overpayment, the Retirement Board is obligated to withhold the member's pension in the amount of the overpayment.

PERAC has created an "Excel worksheet for Employers to use to help board administrators, public employers, and retirees better understand, enforce, and monitor this post-retirement earnings limitation". Attached are PERAC Memo #28/2011 and PERAC Memo #28/2012.

The "Post-Retirement Earnings Worksheet" and related instructions are attached and are also available in the 2012 Memo Section of PERAC's Website (www.Mass.gov/perac). The attached worksheet does not apply to disability retirees.

A copy of this memo is available on our website www.hampshireretirementma.org under the Employer section.

Discussion of this memo will be on the agenda for the June 14, 2012 Advisory Council Meeting being held at 2 p.m. at the Hatfield Town Hall. Please attend and bring your questions to the meeting.

MEMORANDUM #30, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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Auditor Suzanne M. Bump | Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy |

Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Shift Substitution, Creditable Service and Regular Compensation

DATE: October 26, 2011

This memorandum pertains solely to the calculation of creditable service and regular compensation with regard to shift substitution or similar practices where the responsibility for filling a work shift is transferred between or among employees. This should not be construed to exclude other forms of authorized leave from the calculation of regular compensation or creditable service. Recent newspaper articles and editorials have focused attention on “shift substitution.” The practice of shift substitution is widespread and, if safeguards are not put in place by the municipality in question, it may adversely affect a member’s retirement allowance.

Shift substitution is a common practice across the state and can be a valuable tool in certain professions (i.e., firefighting, police, and corrections) where the ability to take a day off when personal matters arise may be difficult if not impossible. These public safety professions obviously need full staffing at all times, causing some departments to require that time off be taken in two week increments, and a member has no ability to take a day off here and there as the need arises. Shift substitution keeps public safety departments fully staffed and also gives individuals members flexibility in attending to personal matters.

In most cases, shift substitution works as follows, using a fire department as an example. Firefighter A wants to attend his child’s kindergarten graduation, but cannot take one day off. He contacts Firefighter B, a firefighter who has the same specialized training as he. Firefighter B agrees to work Firefighter A’s shift. The shift supervisor is informed and agrees to the substitution, and the proper notation is made on the duty log. Firefighter A will then repay Firefighter B by working a shift for him in the future.

Shift substitution is provided for in numerous collective bargaining agreements throughout the state and the country. There is at least one software provider who offers “shift substitution” software for employers. This common practice is mentioned in the Fair Labor Standard Acts of 1938, or “FLSA.”

The practice of substitution shifts is sanctioned by the FLSA. FLSA does not require documentation of a shift swap, or that the shift “substituted” ever be paid back. However, the FLSA concerns itself with wages, overtime and child labor. That Act is not focused on retirement benefits, and the practice of shift substitution has the potential of adversely affecting a member’s retirement allowance. This is because a collective bargaining agreement may not alter the dictates of G.L. c. 32. See, generally, G.L. 150E, § 7. The provisions of G.L. c. 32, §§ 1 and 4 prohibit the grant of regular compensation or creditable service for time during which the member did not work.

Massachusetts General Laws, Chapter 32, Section 1, as amended by Chapter 21 of the Acts of 2009, provides as follows:

"Regular Compensation", during any period subsequent to June 30, 2009, shall be compensation received exclusively as wages by an employee for services performed in the course of employment for his employer.

Massachusetts General Laws, Chapter 32, Section 4(1)(a) provides as follows:

(1) *Qualifications for Credit for Service.* -- (a) Any member in service shall, subject to the provisions and limitations of sections one to twenty-eight inclusive, be credited with all service rendered by him as an employee in any governmental unit after becoming a member of the system pertaining thereto; provided, that in no event shall he be credited with more than one year of creditable service for all such membership service rendered during any one calendar year.

Where shift substitution occurs, there must be safeguards in place to assure that an individual, prior to retirement, has "repaid" all shifts owed by him.

When a member applies to retire and the retirement board is aware that the member's employer permits shift substitution, the retirement board must request and receive documentation that the member has actually worked the requisite number of shifts in a calendar year to qualify for all regular compensation and creditable service claimed. This documentation should be readily obtainable in departments with restrictions and safeguards on this practice.¹ In other departments where safeguards are not in place yet, a member may have a difficult time establishing his entitlement to creditable service and regular compensation when attempting to calculate his or her retirement allowance.

Because it is so imperative that no one retire utilizing creditable service for which they have not worked or regular compensation which they have not earned, PERAC has constructed a new form which is attached to this memorandum. This form must be utilized whenever a member who has engaged in shift substitution seeks to retire.

We are in the process of adding to the "Application for Voluntary Superannuation Retirement" form the following question: "Have you ever engaged in the practice of shift substitution?" If the answer to that question is yes, the new "Employer's Certification of Creditable Service and Regular Compensation in Connection With Shift Substitution" form must be filled out by the Employer prior to the calculation of a retirement allowance for the member.

We trust the foregoing will be of assistance to you.

enclosure

¹ While the FLSA does not mandate documentation, an Employer may require this, and an Employer must always agree in advance to the substitution of a shift. This is why documentation should be readily obtainable.

[Return to PERAC Home Page](http://www.mass.gov/perac/11memos/3011.html)

MEMORANDUM #17, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Shift Substitution, Creditable Service and Regular Compensation
(Follow up to PERAC Memorandum #30/2011)

DATE: January 25, 2012

On October 26, 2011, the Commission issued Memorandum #30/2011, dealing with the practice of shift substitution. Memorandum #30/2011 also introduced a new form entitled “Employer’s Certification of Creditable Service in Connection with Shift Substitution.” Since that Memorandum was issued, a question regarding shift substitution has been added to the application for voluntary superannuation retirement form, and a question in regard to shift substitution will soon be added to our disability application forms as well.

In Memorandum #30/2011 we wrote:

When a member applies to retire and the retirement board is aware that the member’s employer permits shift substitution, the retirement board must request and receive documentation that the member has actually worked the requisite number of shifts in a calendar year to qualify for all regular compensation and creditable service claimed. This documentation should be readily obtainable in departments with restrictions and safeguards on this practice. In other departments where safeguards are not in place yet, a member may have a difficult time establishing his entitlement to creditable service and regular compensation when attempting to calculate his or her retirement allowance.

Questions have arisen in regard to certain aspects of this policy, especially its retroactive or prospective effect. Several boards have asked how far back they should go in seeking documentation from an Employer, and whether this policy is prospective from the date of Chapter 21 of the Acts of 2009, or prospective from the date Memorandum # 30/2011 was issued on October 26, 2011.

In accord with the Commission’s clearly expressed intent that policy is to be applied prospectively only, inquiries regarding shift substitution should only be made in regard to those individuals who apply to retire on or after October 26, 2011. Inquiries about whether shifts substituted have been repaid should only be made in regard to shifts which are substituted and not repaid on October 26, 2011 and thereafter.

Going forward, employers will need to certify the repayment of shifts for the entire period of a member’s employment after October 25, 2011. As you are well aware, when an individual retires their allowance is based on an average of their three or five highest consecutive years of regular compensation¹, and on all their creditable service. Therefore, both regular compensation and creditable service are implicated.

Since shifts must be tracked only on or after October 26, 2011, we are confident that all employers and systems will develop the record keeping procedures they need to certify that shifts have been repaid. The Board may want to issue guidance to its Employers, instructing them that this practice must be tracked for shifts scheduled on or after that date. There is plenty of time and notice for Employers to develop a tracking system to meet these needs.

We trust the foregoing will be of some assistance to you.

1In accord with Section 13 of Chapter 176 of the Acts of 2011, those who become members on or after April 2, 2012 will have their retirement allowance based on the average annual rate of regular compensation for the five highest consecutive years. Those who became members prior to April 2, 2012 will have their allowance based on the three highest years, with the exception of some termination allowance calculations.

Employer's Certification of Creditable Service and Regular Compensation in Connection with Shift Substitution

October 2011

Retirement Board: Please place your address and phone number here. ▶

Applicant's Last Name First M.I. Former or Maiden Name (If different)

Street Address Social Security #

City State Zip

Massachusetts General Laws, Chapter 32, Section 1, defines "regular compensation" as "compensation received exclusively as wages by an employee for services performed in the course of employment for his employer." "Shift Substitution" is a widespread practice, which permits a member to work a shift for another similarly situated employee. Given the dictates of Chapter 32, §§ 1 and 4(1)(a), it is imperative that a member repay shifts prior to retirement so that the member is able to utilize all available creditable service and regular compensation in calculating his or her retirement allowance.

Therefore, if a person who has engaged in shift substitution seeks to retire, his/her Employer must certify that all shifts have been repaid for the time period in question.

This should not be construed to exclude other forms of authorized leave from the calculation of regular compensation or creditable service.

I, (name) am the Employer of the above-named employee at (place of employment) and hereby certify that he or she has engaged in the practice of shift substitution, but that all shifts worked for this employee have been repaid by the employee.

- I am attaching documentation to this effect.
- In the absence of documentation, I am attaching my sworn affidavit and/or the affidavits of others.

The statements and facts contained in this document are correct, complete and accurately presented to the best of my knowledge and belief.

Signature of Employer Print Full Name

Title Date



MEMORANDUM #28, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Updated Work Sheet for Post Retirement Limits on Public Employment for Retirees of a Public Retirement System who Retired for **Superannuation**. (Follow-up to MEMO #28 / 2011)

DATE: March 13, 2012

In accordance with Section 50 of Chapter 176 of the Acts of 2011, public retirees who return to public employment with any governmental entity in Massachusetts and have been retired for more than 12 months may earn an additional \$15,000 during a calendar year.

Effective April 2, 2012, superannuation retirees, who have been retired more than a year, will be allowed earnings of up to \$15,000 above the salary currently being paid for the position from which he/she retired when added to his/her retirement allowance. **Please note, the new law did not increase the number of hours of public employment that are allowed to be worked during a calendar year. It remains set at 960 annual hours.**

Since the calculation for post-retirement limits for public employment is based on a calendar year basis under the provisions of G.L. c. 32 § 91(b), adding the additional \$15,000 towards post-retirement limits during calendar year 2012 will be afforded to only those retirees whose retirement became effective **on or before April 1, 2011**. In subsequent calendar years, retirees who have retired before January 1st of the prior calendar year will be afforded the additional \$15,000 towards their post-retirement earnings limit.

The updated worksheet has been adjusted in order for individuals who retired **on or before April 1, 2011**, to receive the additional \$15,000 in earning capacity for public employment in calendar year 2012. This adjustment will also allow individuals retiring after April 1 to utilize the worksheet to calculate their earnings capacity for calendar year 2012. If you have downloaded the Worksheet that accompanied Memo #28 / 2011, it should be disregarded and replaced with the Worksheet accompanying this Memo #28 / 2012.

Thank you very much for your cooperation.

Enclosure

MEMORANDUM #28, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy | Gregory R. Mennis
Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Post Retirement Limits on Public Employment in Massachusetts for Retirees of a Public Retirement System

DATE: October 18, 2011

Massachusetts public retirees, who return to public employment with any governmental entity in Massachusetts, are subject to significant earnings and hourly service limitations under state retirement laws [G.L. c. 32 § 91(b) & (c)]. Any member who retired after July 1, 2009 and returned to the service of any governmental entity as a consultant or independent contractor or as a person whose regular duties require that his time be devoted to the service of the commonwealth, county, city, town, district, or authority during regular business hours is also subject to such earnings limitations. The limitations apply to all persons retired from the public sector in Massachusetts who are receiving a retirement allowance, both superannuation and disability retirees.

There are several exceptions to the limitations, for example, retirees who are elected to office by a direct vote of the people. This memorandum is not intended to discuss the exceptions, nor is it intended to discuss the separate limit on any earnings, public or private, to which disability retirees are also subject in Chapter 32, Section 91A.

Essentially, this post-retirement employment cannot exceed service in excess of 960 hours in a calendar year, nor can any compensation from a city, town, the Commonwealth, or any of its subdivisions, when added to his/her retirement allowance exceed the salary currently being paid for the position from which he/she retired.

For example, a retiree is receiving an allowance of \$40,000, and the position from which he or she retired is currently paying \$55,000. The retiree may not earn more than \$15,000 and/or work more than 960 hours in the service of the Commonwealth or a political subdivision thereof in a calendar year.

Clearly, the above example is a very simplistic view of this post-retirement earnings limitation, however, in many cases the enforcement and monitoring is not as simple. For instance, the retiree may be receiving compensation from multiple employers requiring the collection of compensation to determine the total in the aggregate. Also, the information needed to calculate the limits may not be available from the respective retirement board or employer. In any event, the statute is clear, the responsibility for monitoring post-retirement earnings is placed upon the employer and the retiree [G.L. c. 32, § 91(c)].

If a public retiree is re-employed in the service of a city, town, the Commonwealth or any of its political subdivisions, the employer and respective treasurer or person responsible for the payment of compensation, should require the retiree to certify the number of days or hours which he or she has been employed and the amount of earnings in any calendar year. If the number of hours exceeds 960 in the aggregate, the retiree shall not continue to be employed or if the earnings exceed the amount allowed, the retiree shall return to the appropriate treasurer or person responsible for the

payment of compensation all earnings in excess of the allowable amount. The amount of any excess not returned may be recovered in an action in contract by the treasurer or person responsible for the payment of the compensation to the retiree.

The court has ruled that if the employer does not seek or receive the reimbursement from the retiree, the Retirement Board that paid his/her retirement allowance may recoup the excess payments. [Flanagan v. Contributory Retirement Appeal Bd., 51 Mass.App.Ct. 862, 750 N.E.2d 489 (2001)].

In an effort to help Board Administrators, public employers, and retirees better understand, enforce, and monitor this post-retirement earnings limitation PERAC has developed a post-retirement earnings worksheet in Excel. The "Post-Retirement Earnings Worksheet" and related instructions will be available in the 2011 Memo Section of our Website (www.Mass.gov/perac). In addition, this worksheet and the instructions for its use will also be electronically distributed separately to all Board Administrators to facilitate forwarding them to the employer units within their respective systems.

We urge all retirement boards and public employers to utilize this worksheet to ensure that the hours of employment and earnings being paid to public sector retirees are thoroughly scrutinized. Retirement Boards should share this memorandum with the employers who make up the governmental units in their Retirement Systems to make certain that the information is accurately conveyed and widely distributed.

Thank you very much for your cooperation.

enclosures

Calculation Worksheet for Post-Retirement Earnings in the Public Sector

Employer Unit / Department Name	2012
--	-------------

*[Enter requested information in the shaded areas only for individuals who are receiving a Massachusetts (Chapter 32) pension payment]
 [A copy of this completed worksheet should be submitted to the employees respective Retirement Board]*

Name of Retiree being Rehired:
 Date(s) of Reemployment of Retiree:

MA Public Pension Information:

MA Government Entity from which Retired	
MA Public Retirement System from which Retired	
Title of Position from which Retired	
Date Retired (mm/dd/yyyy)	
Current Annual Salary of the Position from which the Individual Retired	
Total Retirement Allowance anticipated in the calendar year	
Projected Annual Earnings from other MA Government Entities	
Projected Number of Hours from other MA Government Entities	
Projected Non-hourly Annual Earnings from this Employer Unit	
Source of information provided above	

Maximum Allowable Earnings for Calendar Year:

a. Current Annual Salary of Position Retired From	\$0.00
b. Additional Earnings Allowance (c 32 § 91 (b) amended by c 176 § 50 of the Acts of 2011)	\$15,000.00
c. Projected Annual Earnings from other MA Government Entities	\$0.00
d. Projected Non-hourly Annual Earnings from this Employer Unit	\$0.00
e. Current Annual Retirement Allowance	\$0.00

A. Equals the maximum allowable amount for Public Retirees [$A = ((a+b)-(c+d+e))$]: **\$15,000.00**

f. Maximum Number of allowable Hours for Public Retirees	960
g. Projected Number of Hours from other MA Government Entities	0
h. Projected Number of Hours Expected to Work from this Employer Unit	
i. Hourly Rate from this Employer Unit	
j. Maximum Number of Hours allowable at the Hourly Rate from this Employer Unit	

B. Proposed Estimated Hourly Earnings from this Employer Unit [$B = (h*i)$]: **\$0.00**

C. Proposed Estimated Excess Earnings over 960 hours: **\$0.00**

D. Proposed Estimated Excess Earnings over maximum allowable amount: **\$0.00**

E. Estimated Amount deemed Excess: **\$0.00**

**If the amount in B exceeds the amount in A and / or the amount in C is greater than zero, the retiree is deemed an Excess Earner.
 The amount in C is the excess earnings attributable to exceeding the 960 hours limit.
 The amount in D is the earnings that exceed the maximum allowable amount in A.
 The amount in E is the larger of or equal to C or D. If paid to the retiree, it must be recouped by the employer.**

<i>Retiree Signature</i>	<i>Date</i>
<i>Department Head / Treasurer Signature</i>	<i>Date</i>

INSTRUCTIONS FOR POST-RETIREMENT EARNINGS WORKSHEET

Limits on Public Employment in Massachusetts for Retirees of a Public Retirement System

Massachusetts public retirees, who return to public employment with any governmental entity in Massachusetts, are subject to significant earnings and hourly service limitations under state retirement laws. These limitations apply to all persons retired from the public sector in Massachusetts who are receiving a superannuation or disability retirement allowance. The attached Excel worksheet has been designed to accurately calculate the Massachusetts post-retirement earnings limitations to which employees or new hires are subject.

Worksheet Instructions Although it seems to be a cumbersome worksheet that may entail retrieving information from other governmental entities, it is essential that all the updated data is inserted into the top grid entitled “MA Public Pension Information.” This information should include total projected earnings and hours worked in other governmental entities. In accordance with the statutory earnings limitation provisions, the data should be based on a **calendar year** and should include all hours of work and all earnings received by the retiree from any Massachusetts governmental entity. If the employee is only being compensated by the respective employer on a non-hourly basis and such is stated within this top grid, as “Projected Non-hourly Annual Earnings from this employer Unit”, **do not include such amount prorated in either lines “g” or “h” of the lower grid.**

- The form is designed for you to include relevant data in each of the appropriate **yellow cells**, including the top line entitled “Employer Unit/Department Name and Calendar Year”.
- #### After inputting all the correct information into this top grid, the retiree’s maximum allowable earnings for the calendar year will be automatically detailed in the second grid and totaled below it in the line entitled:
“A. Equals the maximum allowable amount for Public Retirees”
- #### Once this amount is calculated, all you need to do is insert the estimated number of hours the retiree would be working during the calendar year and the corresponding hourly rate in lines “g” and “h”(yellow cells) in the next grid below.
- #### Since retiree’s earnings limits are based on **both** total earnings and hours worked, the worksheet estimates excess earnings for each limitation. However, if a member is deemed in excess of both limits, only the larger applies. Such excess amount will be displayed in line :
“E. Estimated Amount deemed Excess 'hp'Ecrgp fct '[gct”

Under statutory post-retirement earnings limits, this excess amount is to be repaid by the retiree to the respective treasurer or paying entity. If this amount is not repaid by the retiree, the treasurer may recover it. (Please refer to PERAC MEMO #28 of 2011 for more details on retiree earnings limits on www.mass.gov/perac.)

Hampshire County Retirement System

Memo to Advisory Council Members

June 13, 2012
Page 1 of 3

June 13, 2012

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 – CHANGES AFFECTING EXISTING MEMBERS (PRIOR TO APRIL 2, 2012) AS WELL AS NEW MEMBERS

Group Classification

Section 8 provides a clarification to Chapter 32, that in order for a member to be classified in Group 2 or 4 at retirement, a member must have actively performed the duties of that position for not less than 12 months immediately preceding termination from service or retirement. This section is effective on April 2, 2012 and applies only to individuals who entered service prior to that date.

Purchase of Creditable Service

Section 9 provides that members who are reinstated to membership or re-enter membership or are otherwise entitled to purchase creditable service under G.L. c. 32, § 3 must make a make-up payment into the system within 1 year of reinstatement or re-entry, plus buyback interest (on-half assumed actuarial interest). If the member enters into an installment repayment plan, the buyback must be completed within one year of reinstatement or re-entry, or within 1 year of April 2, 2012, whichever is later. If the member does not make the make-up payment within the time period described, the interest on the make-up payment will be the full assumed actuarial interest. This section is effective on April 2, 2012.

Anti-Spiking Rules

Section 18 also deals with anti-spiking and provides that the average rate of regular compensation in any year is not to include amounts that are in excess of 10% of the rate in the 2 preceding years. This prohibition will not apply to modifications in the salary schedule negotiated in a collective bargaining agreement. This section applies to any member retiring on or after April 2, 2012. Further guidance will be issued at a later date.

Hampshire County Retirement System

Memo to Advisory Council Members

June 13, 2012
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Pro-rating benefits for service in more than 1 group classification

Section 14 also mandates pro-rating benefits in cases where a member entered service on or after April 2, 2012 and has creditable service in more than one Group Classification. This provision becomes effective on April 2, 2012. Any active member as of April 2, 2012 may elect to receive a retirement allowance based on the pro-ration which is mandatory for those entering service on or after April 2, 2012. As the time of actual implementation nears, PERAC will issue specific guidance for these provisions.

Repayment of Allowances Received by Members Convicted of Crimes Connected with Their Position

Section 31 provides that any member who retires on or after April 2, 2012 who was convicted of an offense that mandates forfeiture of their allowance must repay to the Retirement System any retirement allowance received after the date that the offense was committed that resulted in the conviction.

Creditable Service for Representatives of Employee Organizations on a Leave of Absence

Section 45 amends G.L. c. 32, § 28K making it clear that creditable service is granted to a member on a full-time or part-time leave of absence without pay to act as a representative of an employee organization. The requirement that the member make contributions to the Retirement System in order to receive creditable service remains. This section becomes effective on February 16, 2012.

Retirees Elected to Public Office

Section 49 eliminates the provision of G.L. c. 32, § 91(a) that allowed an elected official to retire shortly before re-election and to receive both his or her allowance and the salary paid for the elected office. This new provision prohibits an elected official from receiving both payments unless elected to a position at least one year after retiring from the public elected office. This limitation does not apply to members who retired from a position other than an elected position and are subsequently elected to a public office. This section becomes effective and applies to all members who retire on or after April 2, 2012.

Hampshire County Retirement System

Memo to Advisory Council Members

June 13, 2012
Page 3 of 3

Increase on Limit on Post-Retirement Earnings in the Public Sector

Section 50 increases the amount that a retiree can earn in the public sector. The limitation on the hours that a retiree can be employed remains 960, but pursuant to this amendment, the earnings from that employment when added to the member's retirement allowance cannot exceed the salary being paid to the position from which the member retired or in which the member's employment was terminated, plus \$15,000. If the retiree reaches the 960 hour limitation prior to reaching the new excess earnings limitation, such retiree must cease working even though the excess earnings limitation has not been exceeded. It must be noted that the retiree can only earn the maximum amount with the new \$15,000 increase, if the retiree does not exceed the maximum amount allowed within the 960 hour limitation. Section 51 further provides that in the first year after the date of retirement, however, the earnings from that employment when added to the member's retirement allowance cannot exceed the salary being paid to the position from which the member retired or in which the member's employment was terminated. This section becomes effective on April 2, 2012. The earnings limitations for disability retirees contained in G.L. c. 32, § 91A have not changed.

Important Note: Current or former members who take or have taken a withdrawal of contributions permanently forfeit all membership rights. Should they later re-enter public service and again become a member of a Retirement System, they do so as a brand new member subject to the rules in effect upon re-entry (new membership date). They are eligible to purchase prior creditable service, but cannot purchase prior membership rights such as deduction rates, minimum age, calculation factors etc.

Hampshire County Retirement System

Memo to Advisory Council Members

June 13, 2012
Page 1 of 3

June 13, 2012

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 – PRELIMINARY OVERVIEW OF BENEFIT CHANGES FOR NEW MEMBERS WITH MEMBERSHIP DATE ON OR AFTER APRIL 2, 2012

This memo addresses sections of Chapter 176 that affect New Members (on or after April 2, 2012). The following does not change benefit rights of members prior to April 2, 2012. However, it is important to note that current or former members who take or have taken a withdrawal of contributions permanently forfeit all membership rights. Should they later re-enter public service and again become a member of a Retirement System, they do so as a brand new member subject to the rules in effect upon re-entry (new membership date). Although they are eligible to purchase prior creditable service, they cannot purchase prior membership rights such as deduction rates, minimum age, calculation factors etc.

Please note, the following is just an overview of changes as passed, however reading new legislation out-of-context with the rest of Chapter 32 presents more confusion than clarity. The real impact and how it all fits together is not totally clear yet. More information will follow.

Increase in Minimum Retirement Age

Section 11 amends G.L. c. 32, § 5 so that persons who become members of a Retirement System on or after April 2, 2012 and are classified in Group 1 cannot retire prior to attaining age 60. Group 2 and Group 4 are still eligible to retire at age 55. Sections 24, 25, 26 and 27 eliminates eligibility to retire at any age with at least 20 years of service for new members.

Average Annual Rate of Regular Compensation to Utilize for Calculating Allowances

Section 13 changes the number of years to be used in calculating retirement allowances. The calculation is to be based on the high 5 years of regular compensation paid to the member during the last 5 years of creditable service or any 5 consecutive years of

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creditable service, whichever is greater. This section applies to any member who becomes a member on or after April 2, 2012.

Anti-Spiking and Prorating for Group Classification Provisions

Section 14 outlines the method whereby compensation increases of more than 100% in any 2 consecutive years during in the 5 years prior to retirement will be eliminated and require the regular compensation average to be calculated by using the last 5 year average rather than 3 years. This section applies to any member who becomes a member on or after April 2, 2012.

Section 18 also deals with anti-spiking and provides that the average rate of regular compensation in any year is not to include amounts that are in excess of 10% of the rate in the 2 preceding years. This prohibition will not apply to modifications in the salary schedule negotiated in a collective bargaining agreement. This section applies to any member retiring on or after April 2, 2012. Further guidance will be issued at a later date.

Section 14 also mandates pro-rating benefits in cases where a member entered service on or after April 2, 2012 and has creditable service in more than one Group Classification. This provision becomes effective on April 2, 2012. Any active member as of April 2, 2012 may elect to receive a retirement allowance based on the pro-ration which is mandatory for those entering service on or after April 2, 2012. As the time of actual implementation nears, PERAC will issue specific guidance for these provisions.

New Age Factors for Retirement Calculations

Sections 15, 16, 17, and 23 establish new age factors to be applied to any member who becomes a member on or after April 2, 2012. In general, the new factors will increase the age when a member's allowance will be calculated using the maximum age factor. The new factors also increase the minimum age at which a member can retire. There is also a new factor table to be used for members with more than 30 years of creditable service. The 80% maximum amount that a member can receive is amended to reflect the use of a high 5 year average annual amount of regular compensation in calculating the allowance. These new factor tables and 80% limitation apply to members who become members on or after April 2, 2012.

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The age factors for persons who became members prior to April 2, 2012 remain the same. The factors also remain the same for persons who were members prior to April 2, 2012 and who may have breaks in service but have uninterrupted membership after that date.

Treatment of Periods of Leave During Which Creditable Service is Granted

Section 19 amends G.L. c. 32, § 5(3)(b) to reflect the change in the number of years used in a retirement calculation from the average annual rate of regular compensation from 3 years to 5 years. This section applies to any member who becomes a member on or after April 2, 2012.

Termination Allowances Eliminated for New Members

Sections 24, 25, 26 and 27 eliminate the termination allowances contained in G.L. c. 32, § 10(1) & 10(2) and adds a new section 10(2A). New members with at least 10 years of creditable service and who are not reappointed, who are discharged without moral turpitude, who accept a position that requires resignation from an elected position in the General Court, whose position is abolished or who voluntarily resigns shall have the right to apply for superannuation upon attaining the minimum retirement age, contained in the newly enacted age factor tables, provided that they have left their funds in the Retirement System. The newly enacted factor tables will be utilized in calculating the allowance. These sections apply to any member who becomes a member on or after April 2, 2012. These sections become effective April 2, 2012.

Contribution Rates Changed

Section 39 adds new provisions to G.L. c. 32, § 22(1)(b) and establishes a new contribution rate for Group 1 members who become members of a Retirement System on or after April 2, 2012. The contribution rate of these members will be reduced to 6% when the 30 years of creditable service is attained. The new contribution rate applies to members who become members on or after April 2, 2012.