

THE SPECIAL COMMISSION TO STUDY  
THE MASSACHUSETTS CONTRIBUTORY RETIREMENT SYSTEM  
Recommendations up for Vote  
October 1, 2009

**I. PRINCIPLES**

0. MAINTAIN A DEFINED BENEFIT PENSION SYSTEM.

00. AS A MATTER OF FISCAL POLICY, MASSACHUSETTS SHOULD CONTINUE TO OPPOSE SOCIAL SECURITY COVERAGE OF ITS PUBLIC EMPLOYEES.

**II. RECOMMENDATIONS FOR NEW HIRES WITHOUT SIGNIFICANT IMPACT ON COST**

5. PRO-RATE BENEFITS ACCORDING TO THE NUMBER OF YEARS IN EACH GROUP.

6A. SYSTEMATICALLY REVIEW THE CURRENT GROUP CLASSIFICATION OF JOB TITLES AND CLARIFY THE DEFINITIONS FOR BEING IN EACH GROUP.

8. INTRODUCE AN ANTI-SPIKING RULE, LIMITING THE INCREASE IN PENSIONABLE EARNINGS IN ANY YEAR TO NO MORE THAN 7 PERCENT PLUS INFLATION OF THE AVERAGE OF PENSIONABLE EARNINGS OVER THE PREVIOUS TWO YEARS. THIS PROVISION WOULD NOT APPLY FOR BONA FIDE PROMOTIONS AND JOB CHANGES.

9. REPLACE THE CURRENT TERMINATION BENEFIT WITH A RULE THAT A TERMINATED WORKER WITH AT LEAST 5 YEARS OF SERVICE IN THE SAME AGENCY OR TYPE OF POSITION RECEIVES TWO MORE YEARS OF SERVICE WHEN RECEIVING A SUPERANNUATION BENEFIT. Additional years of service should not exceed the time from termination to the age for full benefits.

10A. CONSTRUCT A REPRESENTATIVE SAMPLE OF EARNINGS HISTORIES OF MEMBERS TO ENHANCE ANALYSES OF THE ACTUAL WORKINGS OF THE CURRENT SYSTEM AND POTENTIAL CHANGES.

10B. UNDERTAKE A STUDY OF SWITCHING FROM A FINAL AVERAGING PERIOD FOR BENEFITS TO AN INDEXED CAREER AVERAGE.

13. INTRODUCE A NEW (additional) ACTUARIALLY EQUIVALENT RETIREMENT BENEFIT OPTION THAT PAYS A CONSTANT PENSION STREAM FOR THE MEMBER AND HIS OR HER SPOUSE.

14. IMPROVE NOTIFICATION OF MEMBER'S SPOUSE WITH REGARD TO THE ANNUITY OPTION SELECTED BY THE MEMBER (by sending a second notification to a spouse who has not agreed in writing to a single life option when the time period for response has ended).

15. CLARIFY PENSION FORFEITURE LANGUAGE SO THAT EMPLOYEES DO NOT LOSE PENSIONS FOR MINOR MISDEMEANORS, BUT PRIMARILY FOR FELONY CONVICTIONS RELATED TO THEIR EMPLOYMENT.

16. EMPLOYEES MADE INELIGIBLE FOR A PENSION DUE TO FORFEITURE, BUT WHO CONTINUE TO WORK IN PUBLIC SERVICE, SHOULD NOT BE REQUIRED TO CONTRIBUTE TO THE RETIREMENT SYSTEM.

17. CLARIFY RETIREMENT BOARDS' AND MEMBERS' RIGHTS WHEN BENEFITS BECOME SUBJECT TO THE PENSION FORFEITURE PROVISIONS OF CHAPTER 32.

18. MEMBERS WHO ARE ELECTED OR APPOINTED FOR A TERM OF YEARS UNDER M.G.L. C. 32 SECTION 5(1)(G) SHOULD BE REQUIRED TO REPAY ANY BENEFITS THEY RECEIVED WITH INTEREST IN ORDER TO REJOIN THE SYSTEM, AND WORK FIVE YEARS IN ORDER FOR THEIR BENEFIT TO BE RECALCULATED, CONSISTENT WITH THE PROVISIONS UNDER M.G.L. C. 32 SECTION 105.

19. REMOVE THE TEACHERS' PROVISION WAIVING THE HOURS AND COMPENSATION LIMIT FOR THOSE WHO WORK AFTER RETIREMENT.

22A. REQUIRE MEMBERS RE-ENTERING THE SYSTEM AND PURCHASING PRIOR CREDITABLE SERVICE TO MAKE THAT PURCHASE WITHIN ONE YEAR OF ELIGIBILITY OR TO PAY INTEREST AT THE FULL ACTUARIAL RATE, OR

23A. ALTERNATIVELY, REQUIRE MEMBERS RE-ENTERING THE SYSTEM AND PURCHASING PRIOR CREDITABLE SERVICE TO PAY INTEREST AT THE FULL ACTUARIAL RATE.

22B. REQUIRE MEMBERS ENTERING THE SYSTEM AND PURCHASING CREDITABLE SERVICE BASED ON WORK ELSEWHERE TO MAKE THAT PURCHASE WITHIN ONE YEAR OF ELIGIBILITY OR TO PAY INTEREST AT THE FULL ACTUARIAL RATE, OR

23B. ALTERNATIVELY, REQUIRE MEMBERS ENTERING THE SYSTEM AND PURCHASING CREDITABLE SERVICE BASED ON WORK ELSEWHERE, TO PAY INTEREST AT THE FULL ACTUARIAL RATE.

24. MAKE ELIGIBILITY TO PURCHASE CREDITABLE SERVICE BASED ON WORK ELSEWHERE MORE CONSISTENT BY EITHER REDUCING THE CURRENT ABILITY TO PURCHASE (where not needed to attract good workers) OR EXTENDING IT TO SIMILAR CLASSES OF WORKERS WHO ARE EQUALLY DIFFICULT TO RECRUIT.

25. REQUIRE ALL JUDGES TO CONTRIBUTE TO THE SYSTEM.

27. INCREASE RESOURCES FOR SYSTEM ADMINISTRATION TO HANDLE THE RECOMMENDED CHANGES.

### **III. RECOMMENDATIONS FOR NEW HIRES WITH SIGNIFICANT IMPACT ON COST<sup>1</sup>**

#### **COST REDUCING PROPOSALS**

3. ENCOURAGE LATER RETIREMENT AND LOWER SYSTEM COST BY REDUCING THE AGE FACTORS BY 0.125 PERCENT RATHER THAN THE CURRENT 0.10 PERCENT. SAMPLE FACTORS FOR GROUP 1 EMPLOYEES WOULD BE 2.5 PERCENT AT AGE 65 (UNCHANGED), 1.875 PERCENT AT AGE 60, AND 1.25 PERCENT AT AGE 55. SIMILAR CHANGES WOULD APPLY TO THE AGE FACTORS FOR GROUP 2 AND GROUP 4 EMPLOYEES.

Impact on cost: -3.6% of PVB

4. INCREASE THE PERIOD FOR AVERAGING EARNINGS FOR BENEFIT FROM 3 TO 5 YEARS.

Impact on cost: -3.8% of PVB

6B. REDUCE THE NUMBER OF GROUPS. (Combine Groups 1 and 2, using the benefit rules for Group 1.)

Impact on cost: No estimate

7. TIGHTEN THE CAP ON EARNINGS FOR PURPOSES OF CONTRIBUTIONS AND BENEFITS TO 75 PERCENT OF THE FEDERAL LIMIT (\$245,000 IN 2009).

Impact on cost:  $\leq 0.1\%$  of PVB

*Depending on which of these items are recommended, the Commission will have roughly between 0 and 7% of cost available to finance cost-increasing items.*

#### **COST INCREASING PROPOSALS**

1. IMPROVE BENEFITS FOR SHORT SERVICE WORKERS BY REDUCING THE VESTING PERIOD FOR RETIREMENT BENEFITS (BUT NOT FOR RETIREE HEALTH BENEFITS OR EARLY RETIREMENT BENEFITS) FROM 10 YEARS TO 5 YEARS OF MEMBER SERVICE.

Impact on cost: 1.0% of PVB

2. IMPROVE BENEFITS FOR SHORT-SERVICE WORKERS BY PROVIDING INTEREST EQUAL TO THE ONE-YEAR TREASURY RATE ON ALL WITHDRAWN MEMBER CONTRIBUTIONS.

Impact on cost:  $\leq 0.1\%$  of PVB

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<sup>1</sup> Cost is measured as a percent of the present discounted value of future liabilities assuming the provision had been in place all along for the current employees.

20. CALCULATE THE EFFECTIVE CONTRIBUTION RATE FOR EMPLOYEES CONTRIBUTING 9 PERCENT PLUS 2 PERCENT ON EARNINGS OVER \$30,000 AND [CONSIDER] INDEX[ING] THE \$30,000 THRESHOLD (to the CPI).

Impact on cost: No estimate

11. IMPROVE THE POST-RETIREMENT COST-OF-LIVING ADJUSTMENT (COLA) SO THAT IT IS AUTOMATIC, APPLIES TO A REASONABLE BASE THAT IS INDEXED FOR INFLATION, AND IS APPLIED CONSISTENTLY ACROSS JURISDICTIONS (this last requirement creates an unfunded mandate)

Impact on cost: Each \$1,000 increase in the base = 0.5% of AL, or  
Indexing the \$12,000 base = about 8 % of AL (Need estimates from Jim Lamenzo to translate into % of PVB)

#### **IV. RECOMMENDATIONS REGARDING SHARING OF NORMAL COST**

21. DEFINE THE COMMONWEALTH'S CONTRIBUTION IN TERMS OF A PERCENT OF NORMAL COST SO THAT BOTH THE COMMONWEALTH AND CURRENT EMPLOYEES PAY MORE WHEN NORMAL COST INCREASES, THEREBY REDUCING THE SHIFTING OF THE BURDEN TO NEW HIRES. PERHAPS THE PERCENTAGES SHOULD DIFFER FOR DIFFERENT GROUPS. THE COMMONWEALTH (AND CITIES TOWNS AND COUNTIES) WILL CONTINUE TO BE RESPONSIBLE FOR THE UNFUNDED PAST LIABILITY.

The above provision is impossible to implement on a cost-neutral basis. An alternative is to apply cost-sharing only for *changes* in normal cost, perhaps restricted to changes arising from legislation.

21'. THE CONTRIBUTION RATE OF EMPLOYEES WILL EQUAL THAT UNDER CURRENT LAW PLUS OR MINUS A SHARE OF ANY CHANGE IN NORMAL COST FOR EACH GROUP. THE COMMONWEALTH (AND CITIES TOWNS AND COUNTIES) WILL CONTINUE TO BE RESPONSIBLE FOR THE UNFUNDED PAST LIABILITY.

#### **V. RECOMMENDATIONS REGARDING FUNDING RETIREMENT BENEFITS**

26. EXTEND THE CURRENT FUNDING SCHEDULE AND LIMIT THE ABILITY OF SYSTEMS TO REDUCE FUTURE APPROPRIATIONS UNLESS WELL FUNDED.

The unfunded liability will be amortized as follows:

- a. The full funding date will be extended so that the current unfunded liability and any additional amount accumulated over the next ten years will be fully paid off by a fixed date, which is no later than 30 years from the date the legislature allows the funding schedule to be extended, with a cap on the increase in amortization payments of 4 percent a year.
- b. Any *additional* unfunded liability attributed to experienced gains or losses after the initial ten years will be separately amortized within a 20-year period of its

- occurrence, again with a cap on the increase in amortization payments of 4 percent a year.
- c. In the event of another 2008-type financial crisis, the legislature will determine if the 20-year period should be extended.
  - d. If the legislature approves changes, it will specify the period over which the additional unfunded liability will be amortized.

The funding schedule outlined above is subject to the following additional limits if the funding ratio is less than 90 percent:

- a. At the discretion of the Retirement Board, the increase in the appropriation from one fiscal year to the next will be limited to 8 percent.
- b. The appropriation cannot decrease from one fiscal year to the next.

Require an actuarial valuation at least every 2 years and legislative reviews starting in 2015 and every 5 years thereafter.

## **VI. RECOMMENDATIONS REGARDING RETIREE HEALTH INSURANCE**

28. PRO-RATE THE EMPLOYER CONTRIBUTION FOR RETIREE HEALTH INSURANCE BASED ON YEARS OF SERVICE. Retirees with 25 years of service or more would continue to receive the full contribution from their employer. Those with ten years of service would receive 25 percent of the current contribution. The share of the contribution received would increase 5 percent per year between 10 and 25 years of service. Those receiving a sufficiently decreased contribution would be eligible for the Health Connector, despite the presence of some employer provision of retiree health insurance.

29. CONTRIBUTIONS FOR THOSE ON ORDINARY DISABILITY WOULD BE PRO-RATED BASED ON THE YEARS OF SERVICE THEY COULD HAVE ACHIEVED AT THE NORMAL RETIREMENT AGE BUT FOR THE DISABILITY. THOSE ON ACCIDENTAL DISABILITY ARE EXCLUDED FROM THE PRO-RATING SCHEDULE.

30. CONTRIBUTIONS FOR RETIREE HEALTH INSURANCE SHOULD BE CHARGED TO EMPLOYING JURISDICTIONS BASED ON THE PORTION OF THE EMPLOYEE'S SERVICE IN EACH JURISDICTION (SIMILAR TO THE PROVISION FOR PENSIONS), with earlier employers charged based on their own contribution rate or the contribution rate of the final employer, whichever is lower.

31. RETAIN ELIGIBILITY FOR RETIREE HEALTH INSURANCE AT 10 YEARS OF SERVICE.

32. (Accidentally omitted from previous draft). PROVIDE ONE-HALF OF THE SAVINGS FROM PRO-RATING RETIREE HEALTH INSURANCE CONTRIBUTIONS FOR THE FUNDING OF RETIREE HEALTH INSURANCE.

## VII. RECOMMENDATIONS FOR CURRENT MEMBERS

### Retirement

*A statute changing a public pension program in such a way as to impact current participants will violate the Contract Clause only if: (1) the change infringes a contractual right, (2) the infringement is substantial, and (3) the impairment is not “reasonable and necessary to serve an important public purpose.”*

*As to (1), the state’s retirement plan is treated as a contractual obligation by statute.*

*As to (2), the infringement is deemed substantial only if it impairs the participants’ core of reasonable expectations as informed by the content of the pension statute when the participant began service.*

*As to (3), a modification is reasonable if it bears some material relationship to the theory of the pension system and its successful operation, or is necessary to maintain the integrity of the system.*

#### 5. PRO-RATE BENEFITS ACCORDING TO THE NUMBER OF YEARS IN EACH GROUP.

Implementation would apply only to those changing groups from the date of enactment forward. Members would be assumed to have been in the same group up to date of enactment, unless they choose to provide evidence of having been in a different group in the past.

#### 6A. SYSTEMATICALLY REVIEW THE CURRENT GROUP CLASSIFICATION OF JOB TITLES AND CLARIFY THE DEFINITIONS OF EACH GROUP.

This provision would not affect the current Group of any employee, but would apply to someone changing jobs if that change involved a change of Group.

#### 8. INTRODUCE AN ANTI-SPIKING RULE, LIMITING THE INCREASE IN PENSIONABLE EARNINGS IN ANY YEAR TO NO MORE THAN 7 PERCENT PLUS INFLATION OF THE AVERAGE OF PENSIONABLE EARNINGS OVER THE PREVIOUS TWO YEARS. THIS PROVISION WOULD NOT APPLY FOR BONA FIDE PROMOTIONS AND JOB CHANGES.

This provision would apply only to members younger than age 50 and with less than 15 years of service. Since it would apply only to increases above the bona fide norm, it should not affect a core expectation.

#### 9. REPLACE THE CURRENT TERMINATION BENEFIT WITH THE RULE THAT A TERMINATED WORKER WITH AT LEAST 5 YEARS OF SERVICE IN THE SAME AGENCY OR TYPE OF POSITION RECEIVES TWO MORE YEARS OF SERVICE WHEN RECEIVING A SUPERANNUATION BENEFIT.

This provision would apply only to members who are not vested. Termination after 20 years without an opportunity to continue in a similar job does not appear to be a core expectation.

12. INTRODUCE A NEW ACTUARIALLY EQUIVALENT RETIREMENT BENEFIT OPTION THAT PROVIDES THE SAME COLA AS IS APPLIED TO NEW HIRES.

This provision would only be available to members younger than age 50 and with less than 15 years of service who select this option within one year of eligibility.

13. INTRODUCE A NEW (additional) ACTUARIALLY EQUIVALENT RETIREMENT BENEFIT OPTION THAT PAYS A CONSTANT PENSION STREAM FOR THE MEMBER AND HIS OR HER SPOUSE.

14. IMPROVE NOTIFICATION OF MEMBER'S SPOUSE WITH REGARD TO THE ANNUITY OPTION SELECTED BY THE MEMBER (by sending a second notification to a spouse who has not agreed in writing to a single life option when the time period for response has ended).

15. CLARIFY PENSION FORFEITURE LANGUAGE SO THAT EMPLOYEES DO NOT LOSE PENSIONS FOR MINOR MISDEMEANORS, BUT PRIMARILY FOR FELONY CONVICTIONS RELATED TO THEIR EMPLOYMENT.

16. EMPLOYEES MADE INELIGIBLE FOR A PENSION DUE TO FORFEITURE, BUT WHO CONTINUE TO WORK IN PUBLIC SERVICE, SHOULD NOT BE REQUIRED TO CONTRIBUTE TO THE RETIREMENT SYSTEM.

17. CLARIFY RETIREMENT BOARDS' AND MEMBERS' RIGHTS WHEN BENEFITS BECOME SUBJECT TO THE PENSION FORFEITURE PROVISIONS OF CHAPTER 32.

18. MEMBERS WHO ARE ELECTED OR APPOINTED FOR A TERM OF YEARS UNDER M.G.L. C. 32 SECTION 5(1)(G) SHOULD BE REQUIRED TO REPAY ANY BENEFITS THEY RECEIVED WITH INTEREST IN ORDER TO REJOIN THE SYSTEM, AND WORK FIVE YEARS IN ORDER FOR THEIR BENEFIT TO BE RECALCULATED, CONSISTENT WITH THE PROVISIONS UNDER M.G.L. C. 32 SECTION 105.

19. REMOVE THE TEACHERS' PROVISION WAIVING THE HOURS AND COMPENSATION LIMIT FOR THOSE WHO WORK AFTER RETIREMENT.

22A. REQUIRE MEMBERS RE-ENTERING THE SYSTEM AND PURCHASING PRIOR CREDITABLE SERVICE TO MAKE THAT PURCHASE WITHIN ONE YEAR OF ELIGIBILITY OR TO PAY INTEREST AT THE FULL ACTUARIAL RATE, OR

23A. ALTERNATIVELY, REQUIRE MEMBERS RE-ENTERING THE SYSTEM AND PURCHASING PRIOR CREDITABLE SERVICE TO PAY INTEREST AT THE FULL ACTUARIAL RATE.

Both of these proposals would apply only to current members who have not left yet; those who have left with anticipation of repurchasing on favorable terms would be unaffected. A vested termination, withdrawal of contributions and re-entry into membership does not appear to be a core expectation. .

### **Retiree health insurance**

28. PRO-RATE THE EMPLOYER CONTRIBUTION FOR RETIREE HEALTH INSURANCE BASED ON YEARS OF SERVICE. Retirees with 25 years of service or more would continue to receive the full contribution from their employer. Those with ten years of service would receive 25 percent of the current contribution. The share of the contribution received would increase 5 percent per year between 10 and 25 years of service. Those receiving a sufficiently decreased contribution would be eligible for the Health Connector, despite the presence of some employer provision of retiree health insurance.

This provision would not apply to members within 5 years of eligibility for superannuation benefits (at least 50 years of age or at least 15 years of service), or would not apply to members who are vested.

29. CONTRIBUTIONS FOR THOSE ON ORDINARY DISABILITY WOULD BE PRO-RATED BASED ON THE YEARS OF SERVICE THEY COULD HAVE ACHIEVED AT THE NORMAL RETIREMENT AGE BUT FOR THE DISABILITY. THOSE ON ACCIDENTAL DISABILITY ARE EXCLUDED FROM THE PRO-RATING SCHEDULE.

This provision would not apply to members within 5 years of eligibility for superannuation benefits (at least 50 years of age or at least 15 years of service), or would not apply to members who are vested.

30. CONTRIBUTIONS FOR RETIREE HEALTH INSURANCE SHOULD BE CHARGED TO EMPLOYING JURISDICTIONS BASED ON THE PORTION OF THE EMPLOYEE'S SERVICE IN EACH JURISDICTION (SIMILAR TO THE PROVISION FOR PENSIONS), with earlier employers charged based on their own contribution rate or the contribution rate of the final employer, whichever is lower.

31. RETAIN ELIGIBILITY FOR RETIREE HEALTH INSURANCE AT 10 YEARS OF SERVICE.

32. (Accidentally omitted from previous draft). PROVIDE ONE-HALF OF THE SAVINGS FROM PRO-RATING RETIREE HEALTH INSURANCE CONTRIBUTIONS FOR THE FUNDING OF RETIREE HEALTH INSURANCE.