



Commonwealth of Massachusetts
MIDDLESEX COUNTY RETIREMENT SYSTEM
25 LINNELL CIRCLE • P.O. BOX 160 • BILLERICA, MA 01865
WWW.MIDDLESEXRETIREMENT.ORG

CHAIRMAN
THOMAS F. GIBSON, ESQ.

BRIAN P. CURTIN

JAMES M. GOOKIN

JOHN BROWN

EDGAR W. McLEAN, JR.

DIRECTOR
JACQUELINE WILLIAMS

MEMORANDUM

TO: MIDDLESEX COUNTY RETIREMENT BOARD ADVISORY COUNCIL

RE: Summary of Recent Legislative Changes to the Public Pension Law

The Middlesex County Retirement Board presents this summary of legislative changes to the public pension law enacted through July 31, 2010. As the Council is keenly aware, pension reform was a focus of the past two year legislative session.

I. Chapter 21 of the Acts of 2009

This law was enacted in the first year of the legislative session on June 16, 2009, and has been previously presented in detail. The law resulted in several changes to regular compensation, termination allowances for elected officials, dual service, accidental disability calculations, creditable service for members earning less than \$5,000.00, and provided an extension of the funding schedule from 2028 to 2030. See PERAC Memo #24/2009:

<http://www.mass.gov/perac/09memos/2409.html>; and PERAC Memo #10/2010:

<http://www.mass.gov/perac/10memos/1010.html>.

In the second year of the formal legislative term which expired on July 31 2010, there were additional changes enacted.

II. Chapter 131 of the Acts of 2010

The annual appropriation for the Commonwealth's FY 2011 operating budget was enacted in this law. Although both the Senate and the House had offered differing versions of additional pension reform initiatives, the items which could be agreed upon by both legislative bodies were incorporated as outside sections of Chapter 131, which became effective on July 1, 2010. These included:

- ***Cap on Regular Compensation.*** A cap on regular compensation (not overall earnings) will be applied to new members entering the system after January 1, 2011. Regular compensation payable to these members cannot exceed 64% of the annual pension earnings limitation currently imposed under federal law as pertaining to certain plans described in 26 U.S.C. 401(a). That limitation, which is indexed annually, is currently set at \$245,000. To illustrate, had the cap been in effect today, a maximum retirement benefit of \$125,440 would be established. (80% of 64% of \$245,000). As stated above, the federal earnings cap is indexed, so that the maximum retirement benefit would be reasonably expected to increase annually.
- ***Interest Rate on Returned Retirement Deductions.*** Members who first joined the retirement system after January 1, 1984 and who have less than 10 years of creditable service are entitled to annual interest of 3% upon withdrawal of their accumulated total retirement deductions. Members who established an earlier date of membership, or who have more than ten years of service, will receive 100% of the rate of regular interest upon withdrawal of their accumulated deductions. "Regular interest" is defined as interest at a rate established by PERAC obtained from the average rates paid on individual savings accounts by no less than 10 financial institutions.

- ***Allowance to Surviving Spouses of Disabled Employees.*** The law allows for a local option supplemental increase in the annual amount paid to surviving spouses of disabled employees who were unable to select Option C upon retirement (i.e., members who retired for disability prior to 1997), from \$6,000 to \$9,000. Acceptance of this section requires a majority vote of the Board and is subject to the approval of the Advisory Council. The increase takes effect upon filing of the appropriate approvals with PERAC, but no earlier than January 1, 2011. If accepted by the Board, this will be on the agenda of the Advisory Council meeting, tentatively scheduled for December 17, 2010.
- ***Clothing Allowance.*** The issue of clothing allowances as regular compensation was revisited following the decision of the Appeals Court in O'Brien v. CRAB, which held that such allowances were not regular compensation. The legislation disallows clothing allowances from regular compensation, but under the same terms and condition as originally set forth in Chapter 21 of the Acts of 2009, i.e., if clothing allowances were treated as regular compensation and payable under a collective bargaining agreement or personal services contract in effect on May 1, 2009, the allowance shall continue to be included as regular compensation during the term of the collective bargaining agreement or contract, but no later than June 30, 2012.
- ***Proration of Health Insurance Premiums.*** Although not part of the Board's administration of the retirement laws, health insurance contributions for members retiring after January 1, 2011 will be prorated among the member's prior public employers.

III. Chapter 188 of the Acts of 2010

The so-called Municipal Relief Act was enacted on an emergency basis on July 27, 2010, and included several sections which amended the public employee retirement law.

These changes include:

- ***Actuarial Valuations and Funding Schedules.*** System valuations are now statutorily required to be conducted every 2 years, and experience investigations are to be conducted every 6 years. The maximum funding schedule has been increased from 2030 to 2040, with certain conditions to be met to utilize the additional years: (1) the payment in a year under the revised schedule or a subsequent schedule cannot be less than the payment in a prior fiscal year under the then current schedule until the system is fully funded; and, (2) the increase in the amortization component of the appropriations required by the schedule from year to year does not exceed 4 per cent. In conjunction with an increase to the COLA base, discussed below, retirement systems may establish a schedule under this section that provides for an increase in the maximum base amount on which the cost-of-living adjustment is calculated pursuant to section 103, in multiples of \$1,000. Acceptance of this subsection is to be made by the Board and the Advisory Council.
- ***Increase in COLA Base.*** The law allows for an increase in the maximum base amount upon which the annual cost-of living adjustment is calculated, in multiples of \$1,000. Each increase in the maximum base amount must be accepted by a majority vote of the Board, and is subject to the approval of the Advisory Council.
- ***Early Retirement Incentive Program.*** In section 66 of Chapter 188 an early retirement incentive (“ERI”) applicable only to employees of cities and towns (and electric light companies) was established. The ERI is a combination of years and service not to exceed 3 total years, but it can be less. Implementation of the ERI is largely placed under the control of the municipality’s Chief Executive Officer, and neither the Board nor the Advisory Council have a direct role. If an ERI is to be considered, a detailed plan

showing the value and including limitations on backfilling must be submitted to PERAC for approval on or before September 28, 2010. If the plan is approved by PERAC, the plan is then submitted to the municipality's legislative body (Board of Selectman) for acceptance at its next meeting. If the ERI plan is accepted by the Board of Selectman, it must be offered to all employees with more than 20 years of creditable service within one month of the acceptance date. The Board will supply employee creditable service information to the municipalities who are contemplating the implementation of the ERI. Employees must then apply to participate in the plan within 60 days of notice of the ERI. The municipality's Chief Executive Officer has the sole discretion to determine which applicants for the ERI will be allowed to participate based on the municipality's needs, and such employees must retire within 2 months of the date of notification. An employee taking advantage of the ERI must forfeit all accrued sick and vacation time, the amount of which is paid to the retirement system to offset the cost of the ERI. PERAC has sent formal notice to all Chief Executive Officers, which can be viewed here:

<http://www.mass.gov/perac/10memos/na10.html>.

The above represents a brief summary of changes impacting the operations of the retirement system. If the Council members would require further detail on any aspect of these changes, the Board would be pleased to provide additional information. Please feel free to forward this communication to interested parties.