

Chapter 176 of the Acts of 2011
An Act Providing for Pension Reform and Benefit Modernization

Summary of Provisions

Except where noted, Effective February 16, 2012

SECTION 1. Amends G.L. c. 4, s. 7, cl. 26 to exempt retirement board member statements of financial interests filed under new section 20C of Chapter 32 from the definition of "public records."

SECTION 2. Eliminates the granting of exemptions by PERAC to retirement boards of statutory restrictions on investments.

SECTION 3. Extends window during which certain employees within the Department of Higher Education can elect into Optional Retirement Plan from 90 to 180 days.

SECTION 4. Amends the existing exemption for contracts for "retirement board services" in the state procurement statute, G.L. c. 30B, so as to provide that such procurements will take place under the new section 23B of Chapter 32.

SECTION 5. Amends definition of "maximum age" in section 1 to 65 instead of 55 (affects state police and other public safety). **Section 5 takes effect on April 2, 2012.**

SECTION 6. Excludes unreported amounts received from the federal government as wages from regular compensation received before 11/11/46.

SECTION 7. Adds correctional officers to employees for whom holiday pay will count as regular compensation (i.e., police, fire, dispatchers.)

SECTION 8. Adds a requirement that after 4/2/12 new members enrolled in Groups 2 and 4 must be actively enrolled and serving in those positions for at least one year prior to retirement in order for the group retirement factor to apply. **Section 8 takes effect on April 2, 2012.**

SECTION 9. Requires that all members redepositing refunds of accumulated deductions or purchasing service must make payment, or arrange to make payment, within one year of reinstatement to service, or by 4/2/13, whichever is later. If member does not do so, required interest rate increases from buyback interest rate to system's full actuarial assumed interest rate. **Section 9 takes effect on April 2, 2012.**

SECTION 10. Applicable only to retirees of MTRS or retired teachers in the Boston Retirement System. Renders free creditable service for pre -1975 maternity leaves under certain conditions. **Section 10 takes effect on April 2, 2012.**

SECTION 11. Conforms text at the beginning of section 5 to the minimum retirement age of 60 for members who join system on or after 4/2/12. **Section 11 takes effect on April 2, 2012.**

SECTION 12. Amends section 5(1)(g), applicable to inactive members returning to service by election or appointment. Requires payment of buyback interest (see section 46) and requires compliance with section 105 reinstatement procedure. Applies to repayments made on or after 4/2/12 per section 63. **Section 12 applies only to repayments and purchases of creditable service on or after April 2, 2012.**

SECTION 13. Retirement allowance is calculated based on high 5 year average rather than 3 years. **Section 13 applies only to members who become members on or after April 2, 2012.**

SECTION 14. Inserts anti-spiking provision and group classification proration provision in section 5. **Section 14 takes effect on April 2, 2012.**

Anti-Spiking: If in the 5 years preceding retirement, the difference in the annual rate of regular compensation is 100% or more in any 2 consecutive years, then 5 year average is to be used, not 3.

Group Proration: Active members as of 4/2/12 who served in more than one group may elect to prorate their retirement benefit according to percentage of years in each group (Group 4 or 2 to Group 1 would benefit, not vice versa); for new members joining on or after 4/2/12 proration is mandatory. PERAC determines method of proration. A member who entered service on or before 4/2/12 and "is seeking Group 2 or 4 classification," and is inactive on the date of retirement, shall receive a deferred retirement based on group of position in which last employed.

SECTION 15. Strikes out existing title for table and replaces it with a title governing new members on or after 4/2/12. **Section 15 takes effect on April 2, 2012.**

SECTION 16. Inserts two new age factor tables for members joining system on or after 4/2/12. First table governs those retiring with less than 30 years of creditable service: minimum retirement age of 60; maximum age factor reached at age 67 for Group 1. Age factors in between range from .55 to .35 lower than existing factors. Second table governs those retiring with 30 or more years of creditable service: age factors slightly higher than preceding table, but retains minimum retirement age of 60 and maximum age factor reached at 67 for Group 1. **Section 16 applies only to members who become members on or after April 2, 2012.**

SECTION 17. Conforms the 80% limitation to the new 5 year regular compensation average for new members on or after 4/2/12 (limit is 80% of 5 year average, not 3). **Section 17 applies only to members who become members on or after April 2, 2012.**

SECTION 18. Second anti-spiking provision, added at the end of section 5(2). Applies only to members retiring on or after April 2, 2012. Calculation of average annual rate of regular compensation shall not include regular compensation that exceeds the average of the preceding 2

years' regular compensation by more than 10%. Exceptions: increase in regular compensation due to an increase in the hours of employment, overtime (exclude as regular compensation at any rate,) a bona fide change in position, a modification in the salary or salary schedule negotiated for bargaining unit members under Chapter 150E. Retirement deductions withheld from excluded amounts under this section shall be returned to member with interest at the full actuarial rate. **Section 18 applies only to members retiring on or after April 2, 2012.**

SECTION 19. Conforms section 5(3)(b), governing inclusion of leaves and periods of absence in calculation of average regular compensation, to new 5 year average for new members as of 4/2/12. **Section 19 takes effect on April 2, 2012.**

SECTION 20. Applies to teachers; reduces 11% contribution rate to 8% for teachers who join on or after 4/2/12 and accrue at least 30 years of creditable service. **Section 20 applies only to members who become members on or after April 2, 2012.**

SECTION 21. Applies to teachers; RetirementPlus "bump" for members who join system on or after 11/11/12 by 2% per year for every year after 23 years, rather than 24. **Section 21 applies only to members who become members on or after April 2, 2012.**

SECTION 22. Applies to teachers; amends section 5(4) to establish that 80% limitation for Retirement Plus members joining system on or after 4/2/12 to be based on 5 year average, not 3. **Section 22 applies only to members who become members on or after April 2, 2012.**

SECTION 23. Amends Ordinary Disability Retirement calculation for members joining system on or after 4/2/12 to provide that allowance equals what member would have received had s/he retired at age 60, with creditable service as of retirement date. Also incorporates 80% limit for ODR for such members based on 5 year regular compensation average, not 3. **Section 23 takes effect on April 2, 2012.**

SECTION 24. Eliminates 20 year deferred vested retirement for any member who joins system on or after 4/2/12. **Section 24 takes effect on April 2, 2012.**

SECTION 25. Eliminates termination retirement benefit (30 year and 20 year provisions) for members who join system on or after 4/2/12. **Sections 25 takes effect on April 2, 2012.**

SECTION 26. Creates a new section 10(2A) that institutes a 10 year deferred vested retirement, upon attainment of minimum retirement age or higher, for members who join system on or after 4/2/12. **Section 26 applies only to members who become members on or after April 2, 2012.**

SECTION 27. Incorporates the new 10 year deferred vested retirement of subsection (2A) into the existing subsection (3) governing deferred vested retirement. **Section 27 applies only to members who become members on or after April 2, 2012.**

SECTION 28. Alters the member-survivor allowance for members who join the system on or after 4/2/12 to be the option (c) allowance to which they would have been entitled had they

retired at age 60, not 55. **Sections 28 takes effect on April 2, 2012.**

SECTIONS 29 and 30. Increases minimum monthly member-survivor allowance to \$500 as of 4/2/12. Local Option.

SECTION 31. Pension forfeiture under section 15 becomes effective as of "the date of the offense for which the member was convicted" and system shall recoup benefits paid after that date. **Section 31 applies only to members retiring on or after April 2, 2012.**

SECTION 32. Adds to the class of employees who can request a hearing if an application for involuntary retirement is filed those members who joined the system on or after 4/2/12 and are either (i) at least 60 years of age with 15 years of creditable service; or (i) less than 60 years of age with 20 years of creditable service. **Section 32 takes effect on April 2, 2012.**

SECTION 33. Prohibits any employee, contractor, vendor, or other person receiving remuneration from a retirement board other than a retirement benefit or board member stipend from serving on a retirement board, also prohibits retirement board employee from sitting on board by which they are employed, but applies only to persons who become retirement board members on or after 4/2/12.

SECTION 34. Increases stipend that may be paid to city, town, county, regional, district or authority retirement board members from \$3,000 to a minimum of \$3,000 and maximum of \$4,500.

SECTION 35. Requires at least 18 hours of training for retirement board members during each term, at least 9 of which shall be at PERAC functions and 9 of which shall be at other functions, such as MACRS, sanctioned by PERAC. Failure to complete prohibits a second term. Special rules for ex officio members or designees. **Section 35 takes effect on April 2, 2012.**

SECTION 36. Requires retirement board members to file with PERAC statements of financial interest similar to those filed by employees in policy making positions with the State Ethics Commission. Failure to file can result in removal from the board.

SECTION 37. Requires retirement boards to maintain copies of all collective bargaining agreements and make them available to PERAC.

SECTION 38. Establishes debarment procedure to be administered by PERAC. Vendors who are convicted of certain crimes are debarred, as are others when there is "substantial evidence" of certain acts like bribery, intentional submission of false information, or willful accounting errors. Notice and hearing is required. Suspension is also possible. Administered by PERAC.

SECTION 39. Amends section 22 to establish two new contribution rates: (i) 6% for members joining the system on or after 4/2/12 with 30 years of creditable service; and (ii) 8% for teachers joining the system after 4/2/12 with 30 years of creditable service and who participate in RetirementPlus. **Section 39 takes effect on April 2, 2012.**

SECTION 40. Deletes some but not all restrictions on retirement board investments, replaces them with prohibitions on investing in a company that derives more than 15% of its revenue from tobacco sales, or directly in mortgages or "collateral loans," and requires the hiring of an investment manager who shall invest the funds. Prohibits any such investment or retention of an investment consultant until PERAC receives evidence of compliance with new section 23B procurement rules.

SECTION 41. Requires all retirement board members to file with PERAC, upon commencement of the member's term, a statement that the member is aware of and will comply with ethics rules of Chapter 268A.

SECTION 42. New procurement rules for "investment, actuarial, legal and accounting" services. Similar to existing procedures currently applicable under c. 30B except (a) requires notice in newspaper of general circulation at least two weeks prior to opening of bids; (b) documents retained for six years; (c) sets minimum time for posting (2 weeks) in "conspicuous place in or near the offices of the retirement board"); (c) expressly allows board to distribute RFR to prospective bidders and to keep lists of prospective bidders. Imposes limit of 5 years on contracts, including all extensions. All contracts must be in writing and no payment until contract executed (implying that services can start but payment can't be made).

SECTION 43. Makes maximum retirement age for state police 65 rather than 55. **Section 43 takes effect on April 2, 2012.**

SECTION 44. Changes retirement formula for state police joining on 4/2/12 or thereafter. **Section 43 takes effect on April 2, 2012.**

SECTION 45. Amends section 28K to allow part-time leaves to serve as representative of a union to be granted creditable service. Creditable service granted is that which would have been granted had the full or part-time leave been in active service. Contributions should be made monthly.

SECTION 46. Requires inactive members who are appointed as judges, and who elect to join the judges' system, to repay their retirement allowance received with buyback interest. Applies to repayments made on or after 4/2/12 per section 63. **Section 46 applies only to repayments and purchases of creditable service on or after April 2, 2012.**

SECTION 47. Increases minimum pension amount applicable to members of the teachers' and state employees' retirement systems with at least 25 years of creditable service to \$15,000 from \$10,000. **Section 47 takes effect on April 2, 2012.**

SECTION 48. Provides option for local retirement boards, through local legislative action, to adopt \$15,000 minimum pension for retirees with at least 25 years of creditable service. **Section 48 takes effect on April 2, 2012.**

SECTION 49. Prohibits elected officials from returning to office post-retirement unless at least

one year has passed since they last held public office. **Section 49 applies only to members retiring on or after April 2, 2012.**

SECTION 50. Increases amount that can be earned post-retirement under section 91(b) by \$15,000, except in "the first year immediately following the effective date of retirement," where old limitation applies. **Section 50 takes effect on April 2, 2012.**

SECTION 51. Allows PERAC to waive filing of annual financial statement by disability retirees under section 91A if such retirees have been retired more than 20 years, have not reported any earnings for the prior 10 years, and sign an affidavit saying they will notify PERAC of any earnings in the future.

SECTION 52. Increases COLA base to \$13,000 for SRS and MTRS.

SECTION 53. Conforms c. 34B sec. 19, governing regional retirement boards, with provisions of section 33 above governing retirement board membership.

SECTION 54. Amends c. 150E sec. 7, governing collective bargaining, to require all employers entering into collective bargaining agreements to send a copy to the retirement board.

SECTION 55. Allows members who retired on or before 5/17/04 under options A or B and who married a same sex spouse on or before 5/17/05 to change such election to C "at the rate that was in effect for that option on the member's retirement date." Surviving same sex spouse has same right. Excess retirement allowance must be repaid "upon such terms and conditions" as board may prescribe. Elections must be made no later than 7/1/12, and retirement board has 180 days to implement.

SECTION 56. Special commission to study classification system.

SECTION 57. State Treasurer to study ways to increase participation in deferred comp plans.

SECTION 58. Special commission to study health care and OPEB.

SECTION 59. Special commission to study disability retirement.

SECTION 60. One-time election for members of Optional Retirement Plan to transfer back to state employees retirement system.

SECTION 61. Defining any state police trainee who graduates on or before 6/1/12 as a pre 4/2/12 member for purposes of section 26(3).

SECTION 62. A&F commissioned study of changes to pension plan, including use of optional defined contribution and hybrid supplements.