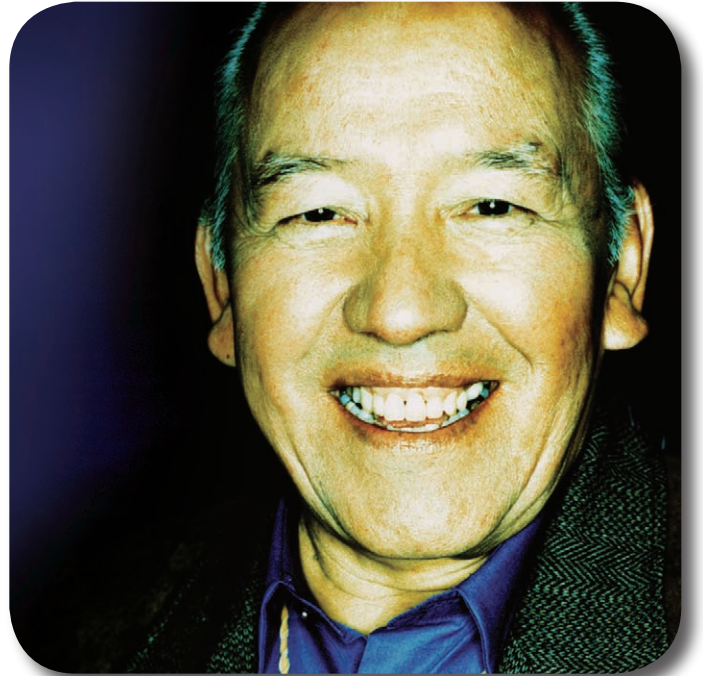


MASSACHUSETTS PUBLIC EMPLOYEE

# Retirement Guide

REVISED 2.2006



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MASSACHUSETTS PUBLIC EMPLOYEE

# Retirement Guide

REVISED 2.2006

This guide is designed to familiarize you with contributory retirement systems for public employees. The contents do not affect the contractual rights between a system and its members and, in the case of any conflict, Chapter 32 of the Massachusetts General Laws and the regulations promulgated by the Public Employee Retirement Administration Commission shall govern.

All citations noted in this document are from G.L. c. 32 unless otherwise indicated.

▶ **Updates to This Guide**

This guide reflects changes and amendments to the law through the fiscal 2005 state budget.

▶ **Additional Copies**

Information about obtaining additional copies of this guide can be found online at [www.mass.gov/perac](http://www.mass.gov/perac).

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## LETTER FROM THE EXECUTIVE DIRECTOR

To the Members of the Commonwealth's Public Employee Retirement Systems:

On behalf of Public Employee Retirement Administration Commission (PERAC) and the 106 contributory retirement systems, I am pleased to present this 2006 Edition of the *Massachusetts Public Employee Retirement Guide*. This document is by far the most widely distributed of our publications, and in light of this, PERAC's Legal and Communication departments have spent many hours updating the material. It is our continuing goal to provide you with the most up-to-date and comprehensive information available regarding your rights and benefits under Chapter 32. With this edition I believe we have met this standard for excellence. Revised versions of the other books in this series—the *Guide to Disability Retirement for Public Employees*, and the *Guide to Survivor Benefits for Public Employees*—are in production and should be ready for publication soon.

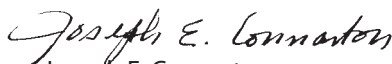
Chapter 306 of the Acts of 1996 created PERAC to oversee and regulate the 106 public pension systems in the Commonwealth. As part of this mission, PERAC possesses a strong commitment to increasing both information accessibility and ease of use. In addition to the publication of the retirement guide series, some steps we've taken toward these ends include improved design of retirement forms and a revision of our Web site: [www.mass.gov/perac](http://www.mass.gov/perac).

PERAC and its staff are working together to serve you, and fulfill the responsibility of the Commonwealth to those who have dedicated their careers to public service. We are proud of the progress we've made over the past 9 years, and going forward we'll continue to put your interests first.

As always, we remain cognizant of the fact that effective communication is not one-sided. I urge members to call upon your local retirement board—an invaluable resource for information and guidance.

Please take the time to carefully review this guide. In order to achieve the goal of a secure and comfortable retirement, every active employee must plan for the long-term and formulate a sound financial strategy.

Sincerely,

  
Joseph E. Connarton  
Executive Director

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# 1

## Composition of the Retirement Systems



### THE MASSACHUSETTS RETIREMENT SYSTEM STRUCTURE

- ▶ **Public Employee Retirement Administration Commission**

All 106 retirement systems are overseen by the Public Employee Retirement Administration Commission (PERAC), which was created by Chapter 306 of the Acts of 1996.

- ▶ **106 Contributory Retirement Systems**

There are 106 contributory retirement systems for public employees in Massachusetts. A retirement board governs each system and all boards, although operating independently, are bound together under one retirement law—Chapter 32 of the Massachusetts General Laws—that establishes benefits, contribution requirements, and an accounting and funds structure for all systems.

There are several categories of retirement systems or boards:

- ▶ **County Boards**

These boards administer retirement for county employees and employees of smaller towns and units within counties that do not have their own boards. In counties that have been abolished, regional retirement boards administer retirement for retirees and current employees.

- ▶ **Municipal Boards**

These boards are the retirement administrators for individual cities and larger towns within the Commonwealth.

- ▶ **State Board**

This is the board for all state employees. There are also some smaller non-state units that are administered by this board.

- ▶ **Teachers' Board**

This board covers all public school teachers, with the exception of Boston teachers. The Boston Retirement Board administers Boston teachers' benefits, although the state is responsible for the cost.

- ▶ **Other Boards**

Seven other boards as established by Chapter 32: the Massachusetts Turnpike Authority, Massachusetts Housing Finance Agency, Massachusetts Port Authority, Blue Hills Regional School Employees, Greater Lawrence Sanitary District, Minuteman Regional Vocational Technical School District, and Massachusetts Water Resources Authority.

- ▶ **Pension Reserves Investment Management (PRIM) Board**

This board is charged with general supervision of the investment and reinvestment of the Pension Reserves Investment Trust (PRIT) Fund for the state employees, state teachers, and other participating/purchasing retirement systems.

# 2

## Commission and Board Makeup



### MEMBER STATUS

#### ▶ **Public Employee Retirement Administration Commission**

The Commission consists of seven members.

The Governor appoints three members:

- one is the Governor or his designee,
- one is a representative of a public safety union and
- one is an expert in the investment of funds.

The State Auditor appoints three members:

- one is the Auditor or his designee,
- one is the President of the Massachusetts AFL-CIO or his designee, and
- one is a representative of the Massachusetts Municipal Association.

- A seventh member of the Commission is appointed by the other six members and serves as Chairman.

An executive director, selected by the Commission, plans, directs, coordinates, and executes administrative functions in conformity with the policies and directives of the Commission.

#### ▶ **Contributory Retirement Boards**

Nearly all contributory retirement boards for public employees in Massachusetts consist of five members:

#### ▶ **City or Town Retirement Boards**

- In city and town retirement systems, the city auditor, town accountant, or other official having similar duties and powers is the board member ex-officio.
- The second member is appointed by the board of selectmen, the mayor, or the city manager.
- The third and fourth members are elected by the members of the retirement system and are active or retired members of the system.
- The fifth member is chosen by the other four and cannot be an employee, retiree, or official of the governmental unit.
- One of these five board members is elected by the other four to serve as chairman.

#### ▶ **County Retirement Boards**

- The county treasurer (or director of finance if there is no treasurer) is the member ex-officio and chairman of a county retirement board.
- The county commissioners appoint the second member.
- The third and fourth members are elected by the members of the retirement system and are active or retired members of the system.
- The fifth member is elected by the County Retirement Board Advisory Council and is the treasurer of one of the governmental units within the system.

▶ **Regional Retirement Boards**

(replacing county retirement boards in abolished counties)

- The first member, selected by the other four, is the chairman of the Regional Retirement Board
- The second member is a member of the Regional Retirement Board Advisory Council and is elected by a majority of the Council .
- The third and fourth members are elected by the membership.
- The fifth member is chosen by the other four and shall not be an employee, retiree, or official of the retirement system.

▶ **State Retirement Board**

- The State Treasurer is the member ex-officio and chairman of the State Retirement Board.
- The second member is appointed by the Treasurer.
- The third and fourth members are elected by the members of the retirement system and are active or retired members of the system.
- The fifth member is chosen by the other four and cannot be an employee, a retiree, or an official of the Commonwealth.

▶ **Teachers' Retirement Board**

- The Commissioner of Education or his designee is the member ex-officio and Chairman of the Teachers' Retirement Board.
- The second member is the State Treasurer or his designee.
- The third member is the State Auditor or his designee.
- A fourth member is a retired former public school teacher and is appointed by the governor.
- The fifth and sixth members are elected by the members of the Teachers' Retirement System and are active or retired members of the system.
- The other six members select the seventh member of the Teachers' Retirement Board.

# 3 | Membership in the Retirement Systems

## ▶ GENERAL INFORMATION

*Is membership required for all new employees?*

- ▶ **Full-Time Employees**  
Membership in a contributory retirement system is mandatory for nearly all public employees who are regularly employed on a full-time basis.
- ▶ **Part-Time and Other Employees**  
Each retirement board exercises full jurisdiction to determine an employee's eligibility for membership in cases involving part-time, provisional, temporary provisional, seasonal, or intermittent employment or service.
- ▶ **Non-members**  
Certain part-time, seasonal, or temporary employees who are ineligible for membership may be required to participate in an alternative plan.

*For whom is membership optional?*

- ▶ **Optional Membership**  
Membership is optional for certain individuals:
  - Elected officials,
  - state officials appointed by the governor, and
  - dentists or physicians employed as hospital internsmay elect to become members within 90 days of commencement of service.

*Who is barred from membership?*

- ▶ **Barred Positions**  
You may be excluded if you are paid through a federal grant for a position for which you are required to be a member of the Federal Civil Service Retirement System.
- ▶ **Exceptions**  
You are not barred from membership if you previously worked under the Federal Civil Service Retirement System. If you receive retirement benefits from the Federal Civil Service Retirement System and also from a retirement system under Chapter 32, the latter benefit will be limited to a certain maximum.

## ▶ MEMBERSHIP STATUS

Membership status is defined in two ways in the retirement law: "member-in-service," and "member-inactive."

- ▶ **Member-in-Service**  
Any member who is regularly employed in the performance of his/her duties is considered a member-in-service. Member-in-service status will continue until death or until

separation becomes effective by reason of retirement, resignation, failure of re-election or re-appointment, or removal or discharge from office or position.

▶ **Member-Inactive**

Members-in-service become members-inactive when they:

- retire and receive a retirement allowance; or
- when their employment has been terminated and they are entitled to any present or potential retirement allowance or a return of accumulated deductions; or
- when they are on an authorized leave of absence without pay for a reason other than retirement board duties which extends for more than a year; or
- upon the expiration of their term if they are elected officials who are not reelected.



## DUAL MEMBERSHIP

*What if I am employed by more than one governmental unit?*

If you are concurrently employed by two or more governmental units which have established contributory retirement systems subject to the provisions of Chapter 32, you may, subject to the boards' rules, become a member of each system, with appropriate deductions being taken from each payroll, and you will be eligible to receive retirement allowances and other benefits from each system.

*Will my total benefit be twice as large as that received by someone employed by one governmental unit?*

▶ **Total Benefit Received from Dual Membership**

Upon your retirement, the total benefit received from such dual membership cannot exceed the amount you would have received had your total regular compensation been received from a single governmental unit. You cannot be credited with more than one year of creditable service during any one calendar year.

▶ **Example**

For example, an employee who has membership in two systems, with six months of service in one system and nine months of service in another system, will be credited with 12 months of service, not 15. The boards of the systems involved will determine how much creditable service shall be allowed by each board, subject to the approval of PERAC.

*Can I retire from one governmental unit but continue to be employed by another governmental unit?*

▶ **Dual Membership: Retirement from One System**

You may terminate your service and apply for a retirement allowance in one system and continue in a second. However, no pension or retirement allowance shall become effective on account of your service in the first system until the date that you terminate service in the second.

▶ **Dual Membership: Disability Retirement from One System**

If you are eligible to receive a disability retirement from one system, your disability pension or retirement allowance will not become effective until you terminate your service from the second system. Until such termination, you will be required to waive the receipt of your disability benefit.



## TRANSFER OF SERVICE AND DEDUCTIONS

*What effect does transferring have on creditable service and accumulated total deductions?*

- ▶ **Career Changes**  
Career changes of public employees may entail a transfer from a job presently held to a new job in a different governmental unit with a different retirement system. The accumulated total deductions and corresponding creditable service of members involved in such a change must be transferred from the former retirement system to the new retirement system.
- ▶ **Retirement After a Transfer of Service**  
When members who have transferred receive a retirement allowance, the entire amount will be paid by the retirement system from which they retire. The retirement system of which he/she was formerly a member will reimburse the retirement system for the portion of the retirement allowance that is based on his/her previous service.



## STATEMENTS OF SERVICE

*Must I furnish my retirement board with information about any past public sector employment?*

- ▶ **Filing Requirements**  
Within one year of becoming a member of a public employee retirement system, (whether you have been restored or reinstated to public service or you have transferred or re-established membership), you must file a detailed statement of all the public service that you have rendered for which you wish to claim credit.

*Will my retirement board verify my prior service?*

- ▶ **Retirement Board Review**  
Within six months of receipt of your statement of service, your retirement board will review and verify all the service that you claim.
- ▶ **Creditable Service**  
If the retirement board determines that you are entitled to creditable service for which you haven't yet made make-up payments, the retirement board will inform you in writing of your right to purchase all or part of such service. If you do elect to purchase service, your retirement board may either allow you to make a lump sum payment or establish an installment plan.
- ▶ **Board Review at Retirement**  
At the time you retire, your retirement board is charged with the responsibility of again reviewing your statement of service and again informing you in writing of your right to purchase service.

# 4 | Annual Reports

## REQUIREMENTS FOR RETIREMENT BOARD FINANCIAL REPORTING

*How can I find out about the financial condition of the system of which I am a member?*

▶ **Reporting Period**

Each board is required to prepare an annual report, in an easily understood format, which shows the financial condition of the system as of December thirty-first of the previous year.

▶ **Report Contents**

The report must include:

- the financial transactions,
- statistical information about the membership,
- a summary of the most recent audit findings,
- a summary of the board's investment policy,
- a summary of the system's investment portfolio, and
- information pertaining to the most recent actuarial valuation.

A copy of this report or a summary of its contents is available to any member upon request.

▶ **The PERAC Annual Report**

PERAC prepares an annual report about the Commission's activities as well as those of each of the 106 public employee retirement systems. Each year's report is posted on PERAC's Home Page: [www.mass.gov/perac](http://www.mass.gov/perac).

# 5 | Contributions by Members

## ▶ WITHHOLDING OF REGULAR COMPENSATION

*How much do members contribute?*

### ▶ Contribution Rates

- Employees who became members prior to January 1, 1975 must contribute 5 percent of their regular compensation.
- Employees whose membership commenced on or after January 1, 1975 but prior to January 1, 1984 must contribute 7 percent.
- Those employees whose membership began on or after January 1, 1984 but prior to July 1, 1996 must contribute 8 percent.
- Those employees whose membership commenced on or after July 1, 1996 must contribute 9 percent.
- Those employees who are appointed to the state police and whose membership commenced on or after July 1, 1996 must contribute 12 percent.
- Teachers who were hired on or after July 1, 2001 must contribute 11 percent because of their required participation in an enhanced benefit program. Teachers who were members prior to July 1, 2001 and who choose to participate in the program must also contribute 11 percent.

## ▶ REGULAR COMPENSATION IN EXCESS OF \$30,000

*Could my contributions be affected by when my membership service began and by the amount of my regular compensation?*

### ▶ Contribution Rate

If your membership began on or after January 1, 1979 and if your annual rate of regular compensation is \$30,000 or more, the treasurer of the governmental unit for which you work will withhold two percent of that portion of your rate of regular compensation which is in excess of \$30,000. This two percent withholding is in addition to the 7, 8, 9, or 12 percent that is already being deducted from your total regular compensation. This additional withholding will be made each pay period from that amount of your compensation that is in excess of an annual rate of \$30,000 even before your total compensation for the year exceeds \$30,000.

### ▶ Example

For example, if you became a member in 1981 and your rate of regular compensation is \$40,000:

- Deductions in the amount of 7% of \$40,000 equaling \$2,800 will be taken; and
- deductions in the amount of 2% of \$10,000 (\$40,000 minus \$30,000) equaling \$200 will also be taken.
- Your annual contributions will be \$3,000, which will be taken from your rate of regular compensation on a weekly or monthly basis (as determined by your pay period).



# 6 | Creditable Service

## ▶ GENERAL REQUIREMENTS

*How is creditable service earned?*

In general, you earn creditable service toward your retirement allowance for the period during which you contribute either 5%, 7%, 8%, 9%, 11%, or 12% of your salary to the retirement system.

*May I buy back creditable service?*

▶ **Re-establishing Creditable Service**

If you terminate your public service and take a refund of your accumulated total deductions and later return to public service, you may re-establish your prior creditable service by buying it back. But, you will begin as a new member, making contributions at the current rate.

## ▶ SEASONAL EMPLOYMENT

*How is creditable service calculated for seasonal employees?*

▶ **Full-Time, At Least Seven Months**

Employees whose work is found by their retirement board to be seasonal in nature and who work full-time for at least seven months are entitled to one year of creditable service.

▶ **Full-Time, Less Than Seven Months**

Retirement boards will, on a board by board basis, determine how much full-time seasonal service will constitute the equivalent of one year of service for those who work less than seven months a year.

## ▶ TRANSFER OR RE-ESTABLISHMENT OF MEMBERSHIP

*What creditable service requirements pertain to the transfer or re-establishment of membership and retirement benefit eligibility?*

▶ **Two-Year Creditable Service Requirement**

No member who is reinstated or re-enters or who transfers or re-establishes his membership is eligible to receive a superannuation, ordinary disability, or termination retirement allowance until the member has been in active service for at least two consecutive years following the start of the new employment.

▶ **Exceptions**

The two-year requirement will not apply in the case of any member who is reinstated to active service, re-enters active service, or who transfers his membership from another retirement system, if the member was eligible to receive a termination retirement allowance at the time of his last separation from service, or if the member has rendered service or attained an age so that he would have been eligible to retire if he had continued to be a member of the retirement system from which membership was transferred.

*Is the two-year requirement waived when a transfer involves no break in service?*

▶ **Waiver of Requirement**

This requirement will not apply once the member has become eligible to retire from the retirement system from which his/her account was transferred by virtue of attaining an age or earning sufficient creditable service.

 **WORKERS' COMPENSATION**

*How is my creditable service affected by an absence caused by a work-related injury or hazard?*

▶ **Benefits**

Full creditable service will be awarded to any member-in-service for a period of absence that is attributable to an injury sustained or a hazard undergone during employment that results in total incapacitation and for which Workers' Compensation benefits are paid. The member receives the creditable service without having to make contributions to the retirement system. Workers' Compensation benefits received during such a period are not considered to be regular compensation and cannot be used to calculate a retirement allowance.

 **MILITARY SERVICE**

*Is creditable service earned during a leave of absence to serve in the Armed Forces of the United States?*

▶ **Credit for Military Service Earned During Leave of Absence**

Employees who leave public employment for the purpose of serving in the armed forces, and who are honorably discharged and return to public employment within two years of their discharge from military service, are entitled to have periods of service in the armed forces of the United States counted as creditable service.

*Does the law limit how much credit such returning employees are eligible to receive?*

▶ **Creditable Service Limit**

Any military service in excess of four years will not be counted as creditable service, unless such service was involuntary.

*Could I receive credit for military service rendered prior to becoming a public employee?*

▶ **Credit for Military Service Earned Prior to Membership Service**

Many retirement systems have accepted local option legislation which would allow veterans to purchase up to four years of creditable service corresponding to their military service.

- Please see the definition of veteran under the section of this guide entitled "Retirement Allowance".
- For each year of military service sought, an eligible member is required to pay ten percent of the regular annual compensation that he/she was being paid upon entering the retirement system.
- Members may not receive credit for military service for which they have already received credit under the leave of absence provision discussed above.
- Members who are veterans should contact their local retirement board to determine if their system has accepted this local option legislation and to determine if they are eligible.

# 7 | Eligibility for Retirement

## ▶ GENERAL REQUIREMENTS

*What is the definition of superannuation?*

“Superannuation” is the term that is used to describe the process of being retired upon reaching a certain age and meeting other requirements, including, length of creditable service.

*When am I considered eligible to retire on the basis of superannuation?*

- ▶ **Groups 1, 2, and 4**
  - If your membership began prior to January 1, 1978, upon attaining age 55 you are eligible to retire. There are no minimum service (vesting) requirements for members in this category.
  - If your membership began on or after January 1, 1978 and you are a member of Group 1 or Group 2, you must have at least ten years of creditable service, and be age 55 or older to be eligible to receive a retirement allowance. If such a member terminates their employment prior to completing ten years of creditable service, eligibility for benefits is limited to a refund of accumulated deductions. A superannuation retirement allowance would not be payable.
  - You are eligible to retire at any age if you have twenty years of creditable service.

## ▶ SPECIAL PROVISIONS

*When is a State Police Officer eligible to retire?*

- ▶ **Group 3**

Any member who has performed service in the Department of State Police for at least twenty years may elect to retire at any age prior to age 55. State Police Officers should contact the State Board of Retirement for more information with regard to their retirement benefits.

# 8

## Mandatory Retirement and Service After Age 65 for Certain Group 2 and 4 Members



### MANDATORY RETIREMENT

▶ **Group 1**

There is no mandatory retirement age for Group 1 members.

▶ **Groups 2 and 4**

Pursuant to Chapter 415 of the Acts of 1987, most members of Groups 2 and 4 are authorized to remain in service after age 65.

But some Group 2 and Group 4 members must retire on the last day of the month in which they attain age 65, the maximum retirement age for their positions.

*How will I know if my position is excluded from the mandatory retirement law?*

▶ **Mandatory Retirement Law Exclusions**

Other than police officers, fire fighters, and correction officers, most Group 2 and 4 employees may continue in service beyond the mandatory retirement age of 65.

▶ **Notice from Retirement Board**

Not less than four months before your sixty-fifth birthday, your retirement board must determine whether your position is excluded from the mandatory retirement law. Your retirement board will present you with written notification of its determination.

If the board determines that you are not eligible to continue working, the board will notify you of the date on which you will be required to retire.



### SERVICE AFTER AGE 65

*Will retirement deductions be taken from my regular compensation if I work after age 65?*

▶ **Deductions**

Deductions will continue to be taken from your regular compensation. Your retirement allowance will be based upon your age at retirement, and the amount of creditable service you have earned by your retirement date. It will also include regular compensation earned after 65, if it represents your three highest earning years.

# 9 | Service After Age 70

## PROCEDURES AND RETIREMENT DEDUCTIONS

*What procedures are applied to those who choose to continue in service after age 70?*

- ▶ **General Requirements**  
All Group 1 members and those members of Groups 2 and 4 who are exempt from the mandatory retirement age of 65 may continue to work after age 70.
- ▶ **Retirement Board Contact**  
At least 120 days before the last day of the month in which such a member in service attains age seventy, he/she will be contacted by his/her retirement board about retirement benefits, options, and procedures for continuing in service beyond age seventy.

*How will my retirement allowance be affected if I choose to remain in public service after my 70th birthday?*

- ▶ **Optional Deductions**  
For service rendered after age 70, retirement deductions become optional.
- ▶ **Continuing Deductions**  
If you choose to continue having deductions taken (once made, this choice is irrevocable), regular compensation earned during this period may be used in the calculation of your retirement allowance calculation and you will be given credit for whatever additional service you render. However, the annuity factor used in the calculation of your allowance will remain fixed at 2.5.
- ▶ **Discontinuing Deductions**  
If you elect to discontinue retirement deductions, any regular compensation earned during this period cannot be used to calculate your retirement allowance and no additional creditable service will accrue.

# 10 | Vesting

## ▶ REQUIREMENTS AND EXCEPTIONS

*What is the definition of vesting?*

“Vesting” is the term commonly used to signify the establishment of the right to a retirement allowance. Vested benefits are those benefits that do not depend upon the member remaining in service in order to be entitled to them.

*When is a member considered to be vested?*

▶ **Vesting Requirements**

Any individual (in Group 1 or Group 2) who:

- becomes a member of a public employee retirement system after January 1, 1978, and
- who has at least 10 years of service, and
- whose accumulated payroll deductions are on deposit with the retirement system may request a retirement allowance upon attaining age 55.

*Are there any exceptions to the ten-year creditable service requirement?*

▶ **Groups 1 and 2**

Any individual (in Group 1 or Group 2) whose membership in a public employee retirement system began before January 1, 1978, and who maintains an annuity savings fund account with that retirement system, is eligible to receive a superannuation retirement allowance at age 55 or later, regardless of how many years of creditable service he/she has completed.

▶ **Elected Officials**

Elected officials who have completed at least six years of creditable service and who, before age 55, fail to be nominated or reelected or fail to become a candidate for nomination, re-election or election or fail to be re-appointed or whose office or position is abolished, can leave their payroll deductions in their annuity savings fund accounts and be eligible to receive a termination retirement allowance at age 55 or later.

# 11 | Retirement Allowance

## ▶ TWO PARTS

A public employee retirement allowance consists of two parts: an annuity and a pension.

*What is an annuity?*

- ▶ **Annuity**  
The contributions that are deducted during the course of your creditable service are deposited for you in an annuity savings fund by your retirement board. The interest that accrues on these contributions is credited to your individual account. That part of your retirement allowance that is based on the total amount in your annuity savings account on the date of your retirement is the annuity.

*What is a pension?*

- ▶ **Pension**  
A pension is the difference between the total retirement allowance specified by law and the annuity as described above.

## ▶ FACTORS

*What factors effect the amount of my superannuation retirement allowance?*

The amount of your retirement allowance depends on:

- your age,
- your length of creditable service,
- the amount of your average annual rate of regular compensation, and
- your group classification.

## ▶ GROUP CLASSIFICATION

*How are groups classified within the system?*

- ▶ **Groups 1, 2, 3, and 4**  
Type of occupation, position or duties determines classification. Retirement boards assign employees to one of four specific groups based upon the classifications set out in section three of Chapter 32.
  - Group 1 members are officials and general employees including clerical, administrative and technical workers, laborers, mechanics, and all others not otherwise classified.
  - Group 2 includes certain employees with hazardous occupations, such as ambulance attendants, licensed electricians, and mental health hospital attendants.
  - Group 3 is made up of state police officers.
  - Group 4 consists of public safety officers, officials, and employees, such as police officers, firefighters, and certain correction officers.



## BASIC FORMULA

*How is a superannuation retirement allowance calculated under the provisions of Chapter 32?*

The basic formula for calculating a Superannuation Retirement Allowance is:

$$\begin{array}{rcl}
 & & \text{Your Benefit Rate} \\
 \times & & \text{Your Highest Three Year Average Annual Rate of Regular Compensation} \\
 \times & & \text{Your Creditable Service} \\
 = & & \text{Retirement Allowance}
 \end{array}$$



## BENEFIT RATE

*What is my benefit rate?*

▶ **Specific Percentages**

Your age (as of your last birthday) at retirement and your group classification determine your benefit rate. The benefit rate is a specific percentage of the amount of the average annual rate of regular compensation.

The chart that follows shows the percentages used in the formulas that are specified in Chapter 32 of the Massachusetts General Laws.

*Are there special provisions pertaining to Group 4 members who terminate their public service prior to their forty-fifth birthday?*

▶ **Provisions for Group 4 Members**

The retirement allowance of a Group 4 member, with at least 20 years of creditable service, whose termination from service and whose retirement allowance both become effective before age 45 is computed by using the percent for age 45 for Group 4 members that is contained in the following chart, with one tenth of one percent subtracted for each year that the age at the member's last birthday is under age 45.

The retirement allowance of a Group 4 member, with at least 20 years of creditable service, who terminates service before age 45 and whose retirement allowance becomes effective after age 45 is computed as if the member were classified in Group 1, unless the member defers retirement until after age 55. If the member does defer retirement until after age 55, he or she would retire under the provisions of section five of Chapter 32 and his/her retirement age would be computed using the percent for the member's age at retirement for a Group 4 member as shown on the following chart.





## BENEFIT RATE CHART

Age Upon the Date of Your Retirement	Percentage of Average Annual Rate of Regular Compensation		
	Group 1	Group 2	Group 4
65 or over	2.5	2.5	2.5
64	2.4	2.5	2.5
63	2.3	2.5	2.5
62	2.2	2.5	2.5
61	2.1	2.5	2.5
60	2.0	2.5	2.5
59	1.9	2.4	2.5
58	1.8	2.3	2.5
57	1.7	2.2	2.5
56	1.6	2.1	2.5
55	1.5	2.0	2.5
54	1.4	1.4	2.4
53	1.3	1.3	2.3
52	1.2	1.2	2.2
51	1.1	1.1	2.1
50	1.0	1.0	2.0
49	0.9	0.9	1.9
48	0.8	0.8	1.8
47	0.7	0.7	1.7
46	0.6	0.6	1.6
45	0.5	0.5	1.5
44	0.4	0.4	1.4
43	0.3	0.3	1.3
42	0.2	0.2	1.2
41	0.1	0.1	1.1



## AVERAGE ANNUAL RATE OF REGULAR COMPENSATION

*Are all forms of compensation received from my employer considered regular compensation for retirement calculation purposes?*

▶ **Payments Not Considered Regular Compensation**

Certain payments including:

- bonuses,
- overtime,
- severance pay,
- any and all unused sick leave, or
- any other payments made as a result of giving notice of retirement

are not considered part of a member's regular compensation and are not included in retirement calculations.

**Which of my yearly amounts of compensation will be used in the calculation?**

▶ **Highest Possible Average**

The retirement formula specifies that members must average annual rates of regular compensation earned in any three consecutive years, or rates earned during the period or periods, whether or not consecutive, which constitute the last three years of service preceding retirement. The law further provides that the benefit must be calculated upon the highest possible average obtainable given those specifications.

▶ **CREDITABLE SERVICE RECORD**

The third part of the basic formula is the creditable service that you have earned. It must be measured in full years and completed months. In some cases, part-time service will be prorated. Members are urged to check with their retirement boards with respect to regulations governing proration of part-time service. Such regulations vary from board to board.

▶ **VETERAN**

**As a veteran, am I entitled to any additional benefits?**

▶ **Additional Benefits**

If you are a veteran, as defined in section one of Chapter 32, you will receive \$15 a year extra for every year or fraction thereof of creditable service, up to a maximum additional benefit of \$300 a year.

▶ **Purchasing Creditable Service**

Veterans may be entitled to purchase creditable service for military service rendered before becoming public employees or while on leave from public service. Please see the section of this guide pertaining to Creditable Service for further details.

**How is the term 'Veteran' defined in the Massachusetts General Laws?**

▶ **Definition**

To be a "veteran" under Massachusetts law a person is required to have either:

- 180 days of regular active duty service and a last discharge or release under honorable conditions
- or
- 90 days of active duty service, one (1) day of which is during "wartime" per the chart below, and a last discharge or release under honorable conditions.

WAR	"WARTIME" DATES
• <b>WWI</b>	Apr 6 1917 - Nov 11 1918
• <b>WWII</b>	Sept 16 1940 - Dec 31 1946
<b>Merchant Marine</b> one day between	Dec 7 1941 - Dec 31 1946
• <b>Korea</b>	Jun 25 1950 - Jan 31 1955
• <b>Vietnam</b>	Aug 5 1964 - May 7 1975
• <b>Lebanon Campaign*</b>	Aug 25 1982 - To Be Determined Later
• <b>Grenada Campaign*</b>	Oct 25 1983 - Dec 15 1983
• <b>Panama Campaign*</b>	Dec 20 1989 - Jan 31 1990
• <b>Persian Gulf</b>	Aug 2 1990 - To Be Determined Later

\* *Naval and Marine DD214 must indicate Expeditionary Medal. All DD214's must specify campaign: Lebanon, Grenada, or Panama.*

For Guard Members to qualify they must have

- 180 days and have been activated under Title 10 of the U.S. Code or
- Members who were activated under Title 10 or Title 32 of the U.S. Code or Massachusetts General Laws, chapter 33, sections 38, 40, and 41 must have 90 days, at least one of which was during wartime, per the preceding chart. The member's last discharge or release must be under honorable conditions.

▶ **Exceptions to Minimum Service Requirement**

It is not necessary that an applicant have completed the minimum service for wartime or peacetime campaign if he/she served some time in the campaign and was awarded the Purple Heart, or suffered a service-connected disability, or died in the service under honorable conditions.

▶ **Training Not Considered Active Service**

Active service in the armed forces as used in this clause shall not include active duty for training in the Army or Air National Guard or active duty for training as a Reservist in the Armed Forces of the United States.

▶ **Creditable Service for Active Reserve and Massachusetts National Guard**

Veterans who also have Active Reserve and Massachusetts National Guard Service may receive creditable service for such guard/reserve service on a ratio of five years of such service to equal one year of creditable service, provided they have the qualifications noted above.

# 12 | Formula: Restrictions and Variations

## ▶ RETIREMENT ALLOWANCE RESTRICTIONS

*Is there a limit on the amount of a retirement allowance?*

- ▶ **Superannuation**  
The superannuation retirement allowance of any member may not exceed 80% of his/her three-year average annual rate of regular compensation.
- ▶ **Veteran's Benefit**  
If you are a veteran, you are entitled to \$15 a year extra for every year or fraction thereof of creditable service, up to a maximum additional benefit of \$300.00 per year. Veterans can still receive this additional veteran's benefit even if it causes their superannuation retirement allowance to exceed 80% of their average annual rate of regular compensation.

## ▶ SAMPLE CASES AND CALCULATIONS

- ▶ **Examples**  
The following examples are presented to aid your understanding of the formula's usage. Please note that annual allowance figures are rounded off to be divisible by 12. Also, all benefits are calculated as though the member selected Option A. (For a discussion of options, please see the section of this guide entitled, "Options for Retirees.")

1

- ▶ **Case Facts**
  - Group: 1
  - Age: 55
  - Non-Veteran
  - Retirement Date: December 31, 2004
  - Creditable Service: 15 years, 6 months
  - 3-Year Average Annual Rate of Regular Compensation: \$42,000.00

Benefit Rate	Average Annual Rate of Regular Compensation	Years of Creditable Service										
1.5 ÷ 100	<table border="1"> <tr><td>2004</td><td>\$44,000.00</td></tr> <tr><td>2003</td><td>\$42,000.00</td></tr> <tr><td>2002</td><td>\$40,000.00</td></tr> <tr><td>Subtotal</td><td>\$126,000.00</td></tr> <tr><td>÷ 3</td><td><b>\$42,000.00</b></td></tr> </table>	2004	\$44,000.00	2003	\$42,000.00	2002	\$40,000.00	Subtotal	\$126,000.00	÷ 3	<b>\$42,000.00</b>	15.5
2004	\$44,000.00											
2003	\$42,000.00											
2002	\$40,000.00											
Subtotal	\$126,000.00											
÷ 3	<b>\$42,000.00</b>											
<b>.015</b>												
<b>Total Annual Allowance</b>		<b>\$9,765.00</b>										
<b>Monthly Benefit</b>		<b>\$813.75</b>										

## 2

► **Case Facts**

- Group: 1
- Age: 68
- Non-Veteran
- Retirement Date: December 31, 2004
- Creditable Service: 32 years
- 3-Year Average Annual Rate of Regular Compensation: \$36,000.00

Benefit Rate	X	Average Annual Rate of Regular Compensation	X	Years of Creditable Service
.025		\$36,000.00		32

<b>Total Annual Allowance</b>	<b>\$28,800.00</b>
<b>Monthly Benefit</b>	<b>\$2,400.00</b>

*This allowance meets, but does not exceed the 80% maximum.*

## 3

► **Case Facts**

- Group: 1
- Age: 45
- Non-Veteran
- Retirement Date: December 31, 2004
- Creditable Service: 20 years
- 3-Year Average Annual Rate of Regular Compensation: \$30,150.00

Benefit Rate	X	Average Annual Rate of Regular Compensation	X	Years of Creditable Service
.005		\$30,150.00		20

<b>Total Annual Allowance</b>	<b>\$3,015.00</b>
<b>Monthly Benefit</b>	<b>\$251.25</b>

## 4

► **Case Facts**

- Group: 1
- Age: 55
- Non-Veteran
- Retirement Date: December 31, 2004
- Creditable Service: 20 years
- 3-Year Average Annual Rate of Regular Compensation: \$31,500.00
- **Left public service at age 45 in 1994**

Benefit Rate	X	Average Annual Rate of Regular Compensation	X	Years of Creditable Service
.015		\$31,500.00		20

<b>Total Annual Allowance</b>	<b>\$9,450.00</b>
<b>Monthly Benefit</b>	<b>\$787.50</b>

# 5

► **Case Facts**

- Group: 2
- Age: 55
- Veteran
- Retirement Date: December 31, 2004
- Creditable Service: 15 years
- 3-Year Average Annual Rate of Regular Compensation: \$35,000.00

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.020		\$35,000.00		15

*Because this member is a veteran, he is entitled to \$15.00 a year for each of his 15 years of creditable service.*

<b>Total Annual Allowance (Initial Computation)</b>	<b>\$10,500.00</b>
<b>+ Veteran's Benefit (\$15.00 x 15 years)</b>	<b>\$225.00</b>
<b>Total Annual Allowance Monthly Benefit</b>	<b>\$10,725.00</b> <b>\$893.75</b>

# 6

► **Case Facts**

- Group: 4
- Age: 65
- Veteran
- Retirement Date: December 31, 2004
- Creditable Service: 41 years
- 3-Year Average Annual Rate of Regular Compensation: \$58,833.00

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.025		\$58,833.00		41

*Statutory provisions limit the allowance to 80% of \$58,833.00 = \$47,066.40.*

*However, the veteran's credit should be applied.*

<b>Total Annual Allowance (Initial Computation)</b>	<b>\$60,304.08</b>
<b>Statutory Limit (80% of \$58,833.00)</b>	<b>\$47,066.40</b>
<b>+ Veteran's Benefit (\$15.00 x 20 year maximum)</b>	<b>\$300.00</b>
<b>Total Annual Allowance Monthly Benefit</b>	<b>\$47,366.40</b> <b>\$3,947.20</b>

# 7

► **Case Facts**

- Group: 4
- Retirement Date: December 31, 2004
- **Age (at Termination of Service): 43** • **Age (as of Retirement Date): 44**
- Creditable Service: 20 years
- Non-Veteran
- Highest 3-Year Average Annual Rate of Regular Compensation: \$47,000.00

Since the Group 4 member terminated service prior to his 45th birthday and his retirement allowance became effective prior to his 45th birthday, his allowance is calculated using the benefit rate for a Group 4 member.

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.014		\$47,000.00		20
<b>Total Annual Allowance</b>				<b>\$13,160.04</b>
<b>Monthly Benefit</b>				<b>\$1,096.67</b>

# 8

► **Case Facts**

- Group 4
- Retirement Date: December 31, 2004
- **Age (at Termination of Service): 44** • **Age (as of Retirement Date): 45**
- Creditable Service: 20 years
- Non-Veteran
- Highest 3-Year Average Annual Rate of Regular Compensation: \$47,000.00

Since the Group 4 member terminated service prior to his 45th birthday but his retirement allowance became effective after his 45th birthday, his allowance is calculated using the benefit rate for a Group 1 member.

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.005		\$47,000.00		20
<b>Total Annual Allowance</b>				<b>\$4,700.04</b>
<b>Monthly Benefit</b>				<b>\$391.67</b>

# 9

► **Case Facts**

- Group: 4
- Retirement Date: December 31, 2004
- **Age (at Termination of Service): 44** • **Age (Defers Accepting Allowance): 57**
- Creditable Service: 20 years
- Non-Veteran
- Highest 3-Year Average Annual Rate of Regular Compensation: \$47,000.00

Since the Group 4 member terminated service prior to his 45th birthday but he deferred accepting his retirement allowance until age 57, his allowance is calculated using the benefit rate for a Group 4 member.

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.025		\$47,000.00		20
<b>Total Annual Allowance</b>				<b>\$23,499.96</b>
<b>Monthly Benefit</b>				<b>\$1,958.33</b>

# 10

► **Case Facts**

- Group: 2
- Retirement Date: December 31, 2004
- Age: 55
- Veteran
- **Creditable Service: 17 years (Public Employee: 15 years + Military Service: 2 years\*)**
- 3-Year Average Annual Rate of Regular Compensation: \$45,000.00

**\* Calculation for Veterans' Purchase of Creditable Service**

<b>Percent</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation (Upon Entry into Public Service)</b>	<b>X</b>	<b>Years of Military Service</b>
0.10		\$12,000.00		2

<b>Cost of Purchase</b>	<b>\$2,400.00</b>
-------------------------	-------------------

<b>Benefit Rate</b>	<b>X</b>	<b>Average Annual Rate of Regular Compensation</b>	<b>X</b>	<b>Years of Creditable Service</b>
.020		\$45,000.00		17

Because this member is a veteran, he is entitled to \$15.00 a year for each of his 17 years of creditable service.

<b>Total Annual Allowance (Initial Computation)</b>	<b>\$15,300.00</b>
<b>+ Veteran's Benefit (\$15.00 x 17 years)</b>	<b>\$255.00</b>
<b>Total Annual Allowance</b>	<b>\$15,555.00</b>
<b>Monthly Benefit</b>	<b>\$1,296.25</b>



*Is the same basic formula applied in every case?*

▶ **Basic Formula**

The formula, as outlined above, applies in most cases and gives members an approximate figure for estimation purposes. The retirement law does include particular provisions for certain employees with unique circumstances who may be entitled to different benefits.

*How is the allowance of a Group 3 member calculated?*

▶ **Allowances for Group 3 Members**

The annual retirement allowance of a Group 3 member will be equal to 60% of the average annual rate of regular compensation received during the twelve month period immediately preceding the effective date of his/her retirement. The total amount of the allowance will be increased by one twelfth of three percent for each full month of creditable service in excess of twenty years service earned prior to the last day of the month in which the member will attain the age of 55, not to exceed 75% of the average annual rate of regular compensation received during the twelve month period immediately preceding the effective date of his/her retirement.

*Does the law guarantee retirement benefits?*

▶ **The Commonwealth's Contractual Obligation**

The payment of superannuation retirement allowances is considered to be a contractual obligation of the Commonwealth and its governmental subdivisions to retirement system members. Superannuation retirement allowances paid to members cannot be decreased or terminated during the member's lifetime.

# 13 | Superannuation Application Procedures

## INTERACTION WITH YOUR RETIREMENT BOARD

*How can I find out about the retirement benefits to which I am now entitled or to which I may be entitled in the future?*

- ▶ **Written Notice of the Estimated Benefits**  
Within thirty days of receiving a written request from you or your authorized representative, your board must provide you with a written notice of the estimated benefits to which you are or may be entitled and the dates upon which you would become eligible to receive such benefits.

*When may I file for retirement?*

- ▶ **Four Months Before Retirement**  
If you are actively employed or on leave of absence, you can apply to your retirement board no earlier than 4 months before your intended date of retirement. Members of Groups 1, 2, and 4 must file a written retirement application with their respective employer, in addition to the form filed with their retirement board.

*Will my retirement board ask me or my beneficiaries to produce additional information?*

- ▶ **Copies of Certified Records**  
Retirement boards may request copies of particular certified records which are required by provisions of Chapter 32 or by rules and regulations of their own which are consistent with the law.  
  
Among the documents which the board could ask you to submit are: birth certificates for you and your spouse, a marriage certificate, veteran's discharge papers, verification of student status, and proof of age for your dependent children.

*May I apply for more than one type of retirement?*

- ▶ **Simultaneous Applications**  
You may file simultaneous applications for superannuation, accidental, and ordinary disability, if you are eligible.

*When can I start to collect my retirement benefits?*

- ▶ **Allowance Checks**  
You should contact your board about when you can expect to receive your first payment after your retirement allowance has been calculated and approved. After the initial payment, allowance checks are due and payable on the last day of each month.

## ▶ WITHDRAWAL OF APPLICATION

*Am I allowed to withdraw my retirement application after I have submitted it to my retirement board?*

- ▶ **Prior to Approval**  
Subject to the approval of your retirement board, you may withdraw your voluntary retirement application at any time prior to receiving a payment.

## ▶ MANNER OF PAYMENT

*What are the provisions pertaining to the payment of small allowances?*

- ▶ Unless your normal yearly retirement allowance is less than \$600 a year, it must be paid to you in lifetime monthly payments.
- ▶ **Between \$360 and \$600**  
If your normal yearly retirement allowance is computed to be between \$360 and \$600, you may choose between a lump sum refund of your deductions, or a monthly allowance.
- ▶ **Less Than \$360 a Year**  
If your normal yearly retirement allowance is computed to be less than \$360 a year, you will be paid the full amount of your accumulated deductions in a lump sum instead of an allowance.

## ▶ WAIVER OF ALLOWANCE

*May I, at any time, refuse to accept my retirement allowance?*

- ▶ You may waive all or any portion of a retirement allowance payable to you. In such a waiver, you may specify a certain period or you may waive until further notice.
- ▶ **Member-in-Service Status**  
You may waive your allowance and resume public employment without any limitations on your earnings. However, except in limited circumstances, the fact that you retired will make you ineligible to once again become a member-in-service. You cannot contribute to the retirement system and no additional benefits will accrue. Please see the section of this booklet pertaining to employment after superannuation retirement.

## ▶ ACTION ON BEHALF OF INCOMPETENT MEMBERS

*Will my retirement rights and benefits be protected in the event I become incompetent?*

- ▶ **Spouse, Guardian, Conservator, Other**  
Any option, election, or right existing for you may be exercised or enforced for you if you have become incompetent or if, for any other reason, you are unable to act on your own behalf. Your spouse is permitted to act on your behalf if your spouse is living with you. If you have no eligible spouse, your guardian or conservator may act. The person that is found by your board to be acting in your best interest would have authority to act in the event that you have no eligible spouse, guardian, or conservator.

# 14 | Suspension of Benefits

*Are there any circumstances under which retirement benefits may be suspended or terminated?*

▶ **Incarceration**

Payments to an accidental or ordinary disability retiree who is incarcerated for a felony committed on or after July 1, 1996 will cease for the period of the retiree's incarceration.

▶ **Annual Statement of Earned Income**

Disabled retirees who fail to comply with reporting requirements about earned income may also be subject to termination of benefits for the period of non-compliance. In accordance with section 91A of Chapter 32, if a disabled retiree fails to submit an Annual Statement of Earned Income Form, and the tax forms required by PERAC, and does not show good cause for this failure, the retiree's rights to a disability retirement allowance will cease until the retiree has complied with the reporting requirement. Prior to any termination of benefits, a disabled retiree must be given notice and an opportunity to be heard by his/her retirement board.

# 15 | Termination Retirement Allowances

*If I am terminated from my position or my position is abolished before I am eligible for superannuation retirement, is there a retirement benefit available to me?*

If a member who has at least 30 years of creditable service resigns before attaining age 55, a termination retirement allowance may be available. Also, if a member with at least 20 years of creditable service fails to be nominated or re-elected or reappointed, or if his office or position is abolished, or if he is removed or discharged from his office or position for a cause other than moral turpitude, a termination retirement allowance may be available.

***How is a termination retirement allowance computed?***

A termination retirement allowance consists of the annuity and a pension equal to one-third of a member's average annual rate of regular compensation received during any period of consecutive years of creditable service for which such rate of compensation was the highest.

For members of the state retirement system, the teachers' retirement system, and systems which have accepted a local option provision, the compensation used is for a period of three consecutive years of creditable service. In all other systems, the period is five consecutive years of creditable service.

In addition to the annuity and pension described above, members who are veterans will receive an additional yearly retirement allowance equal to \$15.00 per year of creditable service, not to exceed \$300.00 per year.

# 16 | Forfeiture of Benefits

***Can I lose my rights to receive my retirement benefits due to misappropriation of funds?***

▶ **Misappropriation of Funds**

You will forfeit your retirement allowance if your retirement board, after a hearing, finds that you have misappropriated funds or property of the governmental unit by which you are or were employed. Your right and your beneficiary's right to receive monthly benefits, or simply a refund of your accumulated deductions, is forfeited to the extent of the amount so misappropriated and to the extent of the costs of investigation, if any, as found by the board.

***Is there a circumstance that will result in the permanent loss of my pension and annuity?***

▶ **Permanent Loss of Pension and Annuity**

In no event shall any member, after final conviction of an offense set forth in section two of Chapter 268A of the General Laws, pertaining to corruption in official conduct or section 25 of Chapter 265 of the General Laws pertaining to police or licensing duties, be entitled to receive a retirement allowance or a return of his/her accumulated total deductions, nor shall any beneficiary be entitled to receive any benefits under such provisions on account of such member.

***Could professional misconduct result in the permanent loss of my pension?***

▶ **Professional Misconduct**

A member, after a final conviction of a criminal offense committed on or after January 12, 1988, involving violation of the laws applicable to his/her office or position, is not entitled to receive a pension benefit, nor is any beneficiary. Unless otherwise prohibited by law, accumulated total deductions (without interest) are returned to the member or his/her beneficiary.

# 17

## Cost-of-Living Adjustment

*Am I automatically entitled to an annual cost-of-living increase in my retirement allowance?*

Cost-of-Living Adjustments (COLAs) are not automatic.

▶ **Procedure for Granting a COLA**

- The decision to grant a COLA is made by the state legislature and Governor for retirees from the State and Teachers' Retirement Systems.
- Recent legislation requires acceptance by the local retirement board and the appropriate legislative body before retirees from local retirement systems would be eligible for COLAs.
- Once the legislation has been accepted, a retirement system can vote to grant an increase for a given year.
- Every member and beneficiary in that system who was receiving an allowance as of June 30 of the prior fiscal year would then be entitled to a COLA.

▶ **COLA Amount**

- The percentage increase in an allowance will be made on the full amount of an allowance up to a base of \$12,000.
- The cost of living percentage is based on the cost of living increase granted under the Consumer Price Index, not to exceed 3.0%.
- In addition to this COLA, an additional COLA (up to a total COLA of 3% of \$12,000) may be granted pursuant to another local option section.

# 18

## Employment After Superannuation Retirement

*Am I limited in the amount of income I earn or receive from other sources after my retirement for superannuation?*

You are limited in the amount of income you earn or receive from other sources after retirement for superannuation only if you are re-employed in the service of the Commonwealth or any of its counties, cities, towns, or districts.

*What are the restrictions pertaining to public service re-employment following superannuation retirement?*

▶ **Public Service Re-employment Limitations**

In accordance with Section 91 of Chapter 32 of the Massachusetts General Laws, there are two strict limitations on further public employment in the Commonwealth following your superannuation retirement from a public service position.

▶ **Earnings and Hours**

Your earnings for the period of re-employment in any calendar year, when added to your retirement allowance, cannot be greater than the salary currently being paid for the position from which you retired.

Your re-employment is limited to a period of up to 960 hours, in the aggregate, in any calendar year.

Your employment must cease when either limitation is reached.

▶ **Section 91**

It is also important to keep in mind:

- § 91 applies to both superannuation and disability retirees.
- § 91 applies to any public employment, regardless of whether or not it occurs in the same governmental unit from which the employee retired.
- It is irrelevant whether an employee-retiree chooses to classify him or herself as a “consultant” or “independent contractor”—the § 91 earnings limitations still apply.
- A retiree may not avoid the limitations in § 91 by forming a company if the primary reason for the formation is to avoid the limitations.
- Earnings for “details” which are paid by city or town payroll are included in the § 91 limitations, regardless of whether the city or town ultimately bills a private entity for the work.
- The § 91 limitations only apply to retirees, not survivors or beneficiaries.

*Is there any public sector re-employment that is not affected by these limitations?*

▶ **Exceptions**

You may:

- hold elective office, if the election is held after your retirement becomes effective,
- be paid for jury duty,
- be paid for services as an election officer,
- hold certain paid appointive positions, and
- certain emergency employment may be authorized.

*Under what circumstances may I become a member-in-service once a retirement allowance has become effective for me?*

▶ **Repayment of Retirement Allowance**

Any individual who is receiving a superannuation or termination retirement allowance may re-enter the retirement system upon repayment (or repayment agreement) of the amount of superannuation/termination retirement allowance received to the date of reinstatement plus actuarial assumed interest. G.L. c. 32, § 105 also provides that any such individual must work at least five years of full-time employment after reinstatement in order to benefit from this provision. You should carefully consider the requirements of this section before agreeing to be reinstated.

▶ **Election or Appointment**

If, as a retiree, you are elected to office by popular vote or receive a particular type of appointment, you can elect to become a member-in-service if you repay, with interest, into the retirement system, the total amount of the allowance you have received from your date of retirement to the date you rejoin the system.

▶ **Disability Retirees**

Disability retirees, who are returned to service under G.L. c. 32, s. 8, will become retirement system members again and will receive creditable service for the years for which they receive disability retirement allowances, without cost.



# 19 | Options for Retirees

## ▶ **Apportionment of Payments**

“Option” is the term used to describe how your retirement allowance is allotted. Your allowance must be paid to you in lifetime monthly payments, but the apportionment of those payments will differ depending upon your option selection. Option choice also determines what benefits, if any, will be paid to survivors after a retiree’s death.

## ▶ **MAKING A CHOICE**

*What factors should influence a member’s choice of option?*

### ▶ **Factors to Consider**

Your health and age at retirement, income from other sources, financial obligations, and the need to provide for others that may survive you are some of the factors that you should consider carefully. Your decision should not be made on the basis of what options are the most popular, or the one chosen by a friend or acquaintance. It should be based on your own personal needs.

*Are there any restrictions on my election of an option?*

### ▶ **Unrestricted Selection**

There are no restrictions. Any member is free to select either Option A, Option B, or Option C upon retirement.

*When must I make my option selection?*

### ▶ **Selection Deadline**

You must choose an option before the date your allowance becomes effective. Retirement board staffers are available to thoroughly discuss options with you prior to that date. If you refuse or fail to select an option before the date your retirement becomes effective, the law provides that you shall be retired under Option B.

*May I change my option choice?*

### ▶ **Changing Your Mind**

You are not permitted to change your option selection after your retirement becomes effective.

## ▶ **SPOUSAL ACKNOWLEDGMENT**

*Must my spouse acknowledge my option election?*

### ▶ **Making an Informed Decision**

Retirement boards must provide members and their spouses with detailed information regarding benefit options to help them make informed decisions.

A married member’s *Choice of Retirement Option Form at Retirement* must be signed by the member’s spouse to acknowledge the spouse understands the option chosen. If a married member files a *Choice of Retirement Option Form at Retirement* that has not been acknowledged by his or her spouse, the retirement board is required to notify

the member's spouse of the option selected within fifteen days by registered mail.

Thirty days after the member's spouse has been notified as provided above, the option would take effect. The effective date of the member's retirement will not be affected by the requirement that spousal acknowledgment must be requested.

## ▶ OPTIONS AVAILABLE AT RETIREMENT

### ▶ OPTION A

#### ▶ **Benefits Paid to Member Only**

Election of Option A means that you will receive your full retirement allowance in monthly payments as long as you live. All allowance payments will cease upon your death and no benefits will be provided for your survivors.

### ▶ OPTION B

#### ▶ **Potential Benefit for Beneficiaries**

Option B provides you with a lifetime allowance which is approximately 1% to 3% less per month than Option A. The annuity portion of your allowance is reduced to allow a potential benefit for your beneficiary(ies). Upon your death, your surviving beneficiary(ies) of record, or if there is no beneficiary living, the person or persons appearing in the judgment of your retirement board to be entitled thereto will be paid the unexpended balance of your accumulated total deductions, if any, from the annuity reserve account.

*How soon would my contributions be depleted?*

#### ▶ **Depletion of Your Accumulated Deductions**

Although your retirement allowance is not reduced because of the depletion of your accumulated deductions, it is generally the case that your deductions are used up within eight to twelve years of your retirement, depending upon your age at retirement. Any remaining balance is to be paid to your beneficiary(ies) in the event of your death.

*Is my choice of beneficiary limited under Option B? Can I change beneficiaries?*

#### ▶ **Wide Choice**

Under Option B, you may designate any person(s) or charity or institution as your beneficiary. You may, at any time after retirement, change your Option B beneficiary (but not your option selection).

### ▶ OPTION C

#### ▶ **Joint and Last Survivor Allowance**

Option C is also known as the joint and last survivor allowance. Selecting this option means that the allowance payments that you would receive during your lifetime would be approximately 10% less than those you would receive under Option A. Upon your death, your designated beneficiary will be paid a monthly allowance for the remainder of his or her lifetime. That allowance will be equal to two-thirds of the allowance which was being paid to you at the time of your death.

*What determines the monthly payments of an allowance payable under Option C?*

▶ **Life Expectancy Factors**

The monthly allowance you receive under Option C depends upon life expectancy factors for you and your designated beneficiary.

*Who may I name as a beneficiary under Option C?*

▶ **Eligible Beneficiaries**

You may name only one beneficiary under Option C. The eligible beneficiaries are limited to your spouse, your former spouse (provided he or she has not remarried at the time the Option C benefit becomes payable to you), your child, your parent, or your sibling.

*May I change my Option C beneficiary?*

▶ **Changing Your Designation**

You may not change your Option C beneficiary after your retirement becomes effective.

*If my spouse dies after receiving allowance payments under Option C, will benefits then be payable to our children?*

▶ **Benefits Payable for Children**

Each child would be eligible to receive an equal share of the allowance his/her parent/your spouse had been receiving.

Payments would be made to the legal guardian of each child and would cease upon the child's 18th birthday, or upon the child's 22nd birthday if he or she is a full-time student at an accredited educational institution.



## OPTION C "POP-UP"

*How does my allowance change under Option C if my beneficiary dies before I do?*

▶ **Application Filed on or After January 12, 1988**

If your allowance is the result of a retirement application filed on or after January 12, 1988, and your Option C beneficiary dies on or after that date and before you die, you will thereafter be paid the full retirement allowance you would have received had you elected Option A at the time your retirement allowance became effective. You cannot select a new Option C beneficiary or a different Option. (This conversion is commonly referred to as the Option C "Pop-Up".) Any cost-of-living increases that have been granted since your Option C retirement became effective will be reflected in your newly established Option A allowance. All payments will cease upon your death.

▶ **Retirement Before January 12, 1988**

For retirees whose retirement became effective before January 12, 1988, and who chose Option C and who are predeceased by their beneficiaries, extension of the Option C "Pop-Up" benefit is determined by their respective retirement board's (and relevant "legislative body's") acceptance of Section 288 of Chapter 194 of the Acts of 1998. Under Section 288, such adjustments must be made prospectively from July 1, 1998. No payment can be made relative to the period, if any, from the date of the death of the beneficiary to July 1, 1998.



## EFFECT OF DIVORCE ON OPTION C BENEFICIARY

*Does divorce following retirement change the status of my former spouse as my Option C beneficiary?*

She/he will continue to be your Option C beneficiary even if you are divorced after retirement.

# 20 | Social Security

▶ **Chapter 32 Offset**

Benefits paid under the provisions of Chapter 32 will offset Social Security benefits in a variety of circumstances. Although a Massachusetts retirement allowance cannot be reduced as a result of other retirement benefits, Social Security benefits might be reduced.

Individuals who are eligible to receive benefits from a Massachusetts contributory retirement system and from the federal Social Security System, as a result of their own employment, or a combination of their own employment and benefits as a spouse or a surviving spouse, should contact their local Social Security Office for detailed information.

# 21 | Survivor Benefits

▶ **Factors Effecting Payable Benefits**

In many instances, benefits are payable to the survivors of public employees who are members of a Massachusetts contributory retirement system at the time of their death. The amount of benefits payable in any particular instance depends on a number of factors including:

- the length of the member's creditable service,
- the eligibility of the member's immediate family, and
- the cause of the member's death.

▶ **Guide to Survivor Benefits**

Please refer to PERAC's *Guide to Survivor Benefits*. Retirement board staff members are also available to interpret the specifics of the law and to assist you.

# 22 | Disability Retirement

## ▶ UNDERSTANDING YOUR RIGHTS

Massachusetts retirement law provides for two different types of disability retirement: accidental and ordinary.

Members who are considering disability retirement should refer to PERAC's *Guide to Disability Retirement for Public Employees* to enhance their understanding of their rights, benefits, the presumptions (Heart Law, Lung Law, and Cancer Presumption) applied to certain public safety personnel, and the entire disability process.

## ▶ ACCIDENTAL DISABILITY: ELIGIBILITY

*Who is eligible to apply for an accidental disability retirement?*

### ▶ **Essential Duties of Position**

Generally, if a member's permanent incapacitation prevents him/her from performing the essential duties of his/her position because of a personal injury sustained or a hazard undergone while in the performance of his/her duties at a definite time and place and without serious and willful misconduct on his/her part, he/she is eligible to apply.

*Is there any age limitation for applying for accidental disability retirement?*

### ▶ **Maximum Age for Group**

Firefighters, municipal police officers, elected officials, personal staff of an elected official chosen by that elected official, policy-making appointees, or immediate legal advisors of an elected official and state court judges must apply before reaching the maximum age for their group.

## ▶ NOTICE OF INJURY REQUIREMENT

*Should I notify my retirement board if I am injured on the job?*

### ▶ **Critical Importance of Notice**

If you have an accident on the job, or are exposed to a health hazard, it is critically important that a notice of injury is filed with your retirement board in addition to the notice filed with your employer. The notice should be filed within 90 days of the occurrence of the injury or exposure. This establishes the time, place, and occurrence of the accident for future reference. If you later become disabled and more than two years have passed since the accident or hazard, it is imperative that you have an official record in order to seek accidental disability benefits. The notice of injury serves as the official record.

### ▶ **Receipt of Workers' Compensation Benefits**

Proof of receipt of Workers' Compensation benefits may fulfill the notice requirement for Group 1 members. Official departmental records may be utilized for members of Groups 2, 3, and 4.



## ORDINARY DISABILITY: ELIGIBILITY

*Who is eligible to receive an ordinary disability retirement allowance?*

- ▶ **Non Job-Related Incapacitation**  
Any member is eligible whose permanent incapacitation, due to sickness or injury that is not job-related, prevents him/her from performing the essential duties of his/her position.

*Is there a service requirement?*

- ▶ **Non-Veterans**  
Service requirements vary. Applicants, who file for ordinary disability retirement on or after January 12, 1988, from the State Retirement System, the Teachers' Retirement System and any other system that has accepted the provisions of G. L. c. 32 § 6(1), must have been granted at least ten years of creditable service. Most systems have accepted this provision. All other applicants must have been granted at least fifteen years of creditable service.
- ▶ **Veterans**  
Members who are veterans must have been granted at least ten years of creditable service.

# 23

## Involuntary Retirement

*Does my department head have the right to file an application to retire me?*

▶ **Action by Department Head**

Your department head may file an application to retire you (Group 1, Group 2, or Group 4 members) upon the basis of disability (or superannuation). The minimum creditable service and age requirements that are applied to applications filed by members also apply to retirement applications initiated by an employer.

*How is the process begun, and do I have any immediate recourse if I feel I should not be retired?*

▶ **Member's Response**

Your department head will initially file an *Involuntary Retirement Application* with your retirement board, which requires no information or any statement from you. A copy of this form must be sent to you simultaneously. Within fifteen days of receiving your copy of the form, you may request a hearing before your retirement board if you are a member-in-service of Group 1, Group 2, or Group 4 who has attained age 55 and who has completed 15 or more years of creditable service, or if you haven't attained age 55 but have completed twenty or more years of creditable service.

*Will the process include a medical examination and evaluation?*

▶ **Medical Examination and Evaluation**

If you are not entitled to an initial hearing and/or your retirement board accepts the appropriateness of the disability application, the involuntary process will continue through the same medical evaluation process that governs a voluntary application for a disability retirement.

▶ **District Court Review**

Any Group 1, Group 2, or Group 4 member who has been involuntarily retired and has attained age fifty-five and completed fifteen or more years of creditable service, or any member so classified who has not attained age fifty-five but who has completed twenty or more years of creditable service, or any such member who is a veteran and has completed ten or more years of creditable service may seek review of such action in the district court in the district in which he/she resides within 30 days after the certification of the retirement board's decision.

# 24

## Refunds

### *What is a refund?*

#### ▶ **Deductions Plus Interest**

A refund is a lump sum returned to you of your accumulated total deductions plus accrued interest which have been set aside in an individual account in the Annuity Savings Fund administered by your retirement board. Monies held in the Annuity Savings Fund earn interest at a rate set annually by PERAC in conjunction with the Commissioner of Banks. (Please see the discussion about limitations on interest payments that follows.)

### *When may I request a refund of my contributions?*

#### ▶ **Receipt Within 60 Days**

You may request a refund following your termination from public service. Although the length of time it takes to process a refund varies among retirement boards, the law says you shall receive your refund within 60 days after filing a written request on a prescribed form with your retirement board.

#### ▶ **Potential Tax Consequences**

There may be substantial federal tax consequences if you take a direct refund of your deductions rather than directly rolling them over into another qualified retirement plan. Your retirement board will provide you with information about the potential tax consequences.

#### ▶ **Child Support Enforcement Order**

An individual's ability to obtain a refund may be affected by a Department of Revenue Child Support Enforcement Order.



## LIMITATIONS ON INTEREST

### *If I apply for a refund when I resign, am I entitled to receive full payment of the interest that my contributions have earned during my public service?*

There can be limitations on the payment of the interest that has accrued in your Annuity Savings Fund account at your retirement board. These limitations can affect individuals whose membership began after January 1, 1984.

#### ▶ **Less Than Five Years**

If you voluntarily withdraw from public service with less than five years of creditable service, you will receive no interest on your accumulated deductions.

#### ▶ **Five Years, But Less Than Ten Years**

If you voluntarily withdraw from public service with a minimum of five years of creditable service but less than ten years of creditable service, you will receive 50% of the interest that has accrued on your payroll deductions over the entire length of service.

#### ▶ **At Least Ten Years**

If you voluntarily withdraw from public service with at least ten years of creditable service, you will receive 100% of the interest that has accrued.





## RESTRICTIONS ON WITHDRAWAL OF ANNUITY MONIES

*Who is ineligible to apply for a refund?*

- ▶ **Retirees**  
All members who are receiving retirement allowances are ineligible to request a refund because their accumulated total deductions are being used on an ongoing basis to provide a portion of their retirement allowance.
- ▶ **Others Who Are Ineligible**  
In addition to those members who are already retired, you may not request a refund if:
  - you continue to be a member-in-service;
  - you are on an official leave of absence;
  - you have a Workers' Compensation claim pending or if you are receiving Workers' Compensation benefits for total incapacity;
  - you have been charged with, or convicted of, misappropriation of funds or property of the governmental unit by which you were employed;
  - you are appealing a dismissal or you have otherwise expressed your intent to continue in public employment.



## CHANGE IN DUAL MEMBERSHIP STATUS

*May I request a refund upon termination from one of my public service positions?*

- ▶ **Account Refund or Transfer**  
If you terminate from one position for reasons other than retirement, but continue to be employed by another governmental unit, your retirement account may be refunded to you upon your written request if your contributions to your first position's retirement system are less than your contributions to the retirement system of which you remain a member. Otherwise, your account must be transferred to the retirement system of the governmental unit in which you are still actively employed.



## TRANSFERRING WITHIN PUBLIC SERVICE

*May I request a refund upon transferring from one public service position to another?*

- ▶ **Contributory Retirement Law Provisions**  
You are not entitled to a refund if you have resigned for the purpose of accepting an appointment to a position in the service of the Commonwealth of Massachusetts or a political subdivision thereof, which is subject to the provisions of the contributory retirement law.



## REPAYMENT OF CONTRIBUTIONS

*If I return to public service, am I required to return contributions that I withdrew?*

- ▶ **Optional Repayment**  
When you return to public service, you are not required to pay back any contributions that you withdrew.  
  
Repayment of these monies plus interest to re-establish your earlier creditable service is optional.



## BUYING BACK CREDITABLE SERVICE

*How do I re-establish creditable service for retirement purposes?*

▶ **Extent of Buyback**

Your prior creditable service will count toward your retirement allowance only to the extent that you buy back the creditable service associated with the annuity savings fund deductions that were refunded to you. "Buy-backs" must include the amount withdrawn plus interest to the date of repayment. If approved by the retirement board, "buy-back" payments can be made on an installment basis.



## INTEREST ACCRUAL

*What if I continue to maintain my Annuity Savings Fund Account with the retirement system even though I have resigned from public service? Will interest still continue to accrue on my Account?*

▶ **Two-Year Period**

Your accumulated deductions will continue to earn interest after you resign. The interest that may be paid to you, if you later seek a refund, is limited to that which accrues during the first two years following your resignation. As is the case with interest earned prior to withdrawal from public service, your date of employment and length of service will determine how much of the interest accrued during this two year period can be paid to you. Please see the answer under "Limitations on Interest" for the details.

*If I return to public service without having taken a refund, will my Account earn interest?*

▶ **Period of Absence**

If you maintain your Account with the retirement system and later return to public service, interest will be credited to your Account for the entire period of your absence. If you again leave public service and request a refund, the limitations stated above will apply.

# 25

## Appeals

***Who has the right to appeal to the Contributory Retirement Appeal Board (CRAB) and when must an appeal be filed?***

▶ **Aggrieved Persons**

Any person who is aggrieved by a decision of a retirement board or PERAC or by the failure of a board or PERAC to take action may appeal to CRAB. In some cases, appeal lies with the district court. (This is discussed more fully below.)

▶ **Time Frame for Appeals**

Appeals to CRAB must be filed within 15 days of the date that the board or PERAC acted or was supposed to act.

If Chapter 32 does not specify a time within which a board or PERAC is required to act, an appeal of a failure to act must be filed within 15 days after the end of one month following the date that a written request to act was filed with the board or with PERAC.

***Who are the members of CRAB?***

▶ **Members of CRAB**

The board consists of three members,

- an Assistant Attorney General, who acts as the chairman;
- a designee of PERAC, and
- a person appointed by the Governor.

*If the matter being considered by CRAB concerns a disability retirement, the Commissioner of Public Health or his designee will substitute for PERAC's designee.*

***How does this appeals process work?***

▶ **Appeals Process**

Within a period of not less than 10 days or more than 60 days after the appeal is filed, CRAB must assign the matter to an Administrative Magistrate from the Division of Administrative Law Appeals. The Administrative Magistrate will conduct a hearing and issue a written decision that shall become final and binding upon the board and all other parties unless, within 15 days, either party files a written objection to CRAB or CRAB orders in writing that it will review the decision of the Administrative Magistrate. CRAB's final decision may be appealed to the Superior Court.

***Is there another avenue of appeal available?***

▶ **District Court**

If you are a member of Group 1, Group 2, or Group 4 who has attained age 55 and who has completed 15 or more years of creditable service, or if you have not attained age 55 but have completed 20 or more years of creditable service, or if you are a veteran and have completed ten or more years of creditable service, you may petition the district court for review of certain decisions involving involuntary retirement or dereliction of duty.

However, in cases where a member has fully cooperated with the processing of an involuntary retirement application, CRAB has held that such cooperation effectively transforms the application from one of an involuntary nature to a voluntary one. In such circumstances, CRAB has held that it still has jurisdiction to hear the appeal.

***If I am awaiting a decision about disability, may I take an allowance for which I am qualified?***

▶ **Pending a Ruling**

You are permitted to take a superannuation retirement allowance (if otherwise eligible) pending a ruling by CRAB pertaining to your accidental or ordinary disability retirement allowance. You are permitted to take an ordinary disability retirement allowance (if otherwise eligible) pending a ruling by CRAB pertaining to your accidental disability retirement allowance. Your acceptance of an allowance will not prejudice your case for receipt of further benefits.

# 26

## Massachusetts Taxation



### CONTRIBUTIONS

*Is a portion of my salary that is deducted for contribution to the retirement system excludable from Massachusetts income tax?*

- ▶ **Exclusion**  
The exclusion is limited to \$2,000.



### REFUNDS

*Will Massachusetts tax any refunded contributions that I may receive after my resignation from public service?*

- ▶ **Contributions/Interest**  
The amount of your refund that represents your contributions and the interest on your account is not subject to Massachusetts income tax.



### RETIREMENT ALLOWANCES

*Are retirement allowances subject to Massachusetts income tax?*

- ▶ **Not Taxable**  
Contributory retirement allowances (sections 1-28 of Chapter 32) are not subject to Massachusetts taxes.

PERAC has no special expertise or jurisdiction with respect to issues of federal taxation. The following reflects PERAC's understanding of current federal laws relating to taxation of retirement benefits.

## ▶ CONTRIBUTIONS

*Is the portion of my salary that is deducted for contribution to the retirement system subject to federal taxation?*

- ▶ **Contributions Made Prior to January 12, 1988 and Buy Backs of Creditable Service**  
Retirement contributions made prior to January 12, 1988 and buy backs of creditable service (whether made prior to or after January 12, 1988), are considered employee contributions and are not considered to be excludable from taxable income.
- ▶ **Contributions Made After January 12, 1988**  
Retirement contributions made after January 12, 1988 are considered employer contributions. Your employer reduces your gross salary for federal income tax purposes by your required retirement contribution amount. This reduces the amount of your income subject to federal taxation and consequently decreases the amount of federal withholding.
- ▶ **Private Tax Deferred Plans and Tax-Sheltered Annuities**  
For employees who belong to private tax deferred plans or who have purchased tax-sheltered annuities, this change with respect to January 12, 1988 could affect the maximum amount that may be contributed to such plans or annuities. Such employees should consider seeking the opinion of a tax consultant about making alterations to their voluntary plans.

## ▶ REFUNDS

*Will I be taxed by the IRS on any refunded contributions that I may receive after my resignation from public service?*

- ▶ **Contributions Made Prior to January 12, 1988**  
That portion of your contributions made prior to January 12, 1988 will not be subject to federal taxation.
- ▶ **Contributions Made After January 12, 1988**  
That portion of your contributions made after January 12, 1988 is subject to federal taxation.
- ▶ **Interest**  
All interest that you receive from your account is also subject to federal taxation.
- ▶ **Refunds Received on or After January 1, 1993**  
Federal legislation may also require withholding for federal taxes on refunds received on or after January 1, 1993. When you request a refund, your retirement board will provide information on the federal requirements.

▶ **Age 59 ½**

In addition, if your withdrawal takes place prior to your reaching age 59 ½, federal law may impose an additional penalty.



## SUPERANNUATION RETIREMENT ALLOWANCES

*Is any retirement allowance which I may receive tax exempt from federal taxation?*

▶ **IRS Publication #17**

A percentage of your superannuation retirement allowance may be excluded from taxable income. The amount of the exclusion is determined by an IRS formula related to the amount of employee contributions (for this purpose, all contributions made prior to January 12, 1988 plus any buy-backs made after that date may be excluded since you have already paid federal taxes on these contributions) and life expectancy. The balance of the allowance is subject to taxation (see IRS Publication #17).

For individuals whose retirement allowance began prior to the 1987 tax year, once the full amount of employee contributions has been excluded under the 3-year rule, payments are fully taxable.



## WITHHOLDING FOR PENSION OR ANNUITY PAYMENTS

*How do I notify the federal government about my withholding preferences?*

▶ **Withholding Preference Certificate**

Withholding toward payment of federal income tax on your retirement allowance will be made by the retirement board in an amount to be specified by you. Retirement boards give their retirees *Withholding Certificates for Pension or Annuity Payments* (Form W4-P). You must complete this form and return it to your board. Your election as to whether you want withholding to apply should be made on this form. Your election will remain in effect until you revoke it. You may make any election or revoke any election as often as you wish by filing a revised form with your board.

*How is my allowance affected if I do not file the prescribed form?*

If you fail to file a *Withholding Preference Certificate*, federal income tax to be withheld from your pension payments will be determined as if your pension payments were wages representing your only income and you were a married individual claiming three dependents.

# 28

## Support Orders and Attachments of Benefits

*Are retirement allowances and refunds subject to attachment to satisfy support orders?*

Pursuant to the Act to Improve the Massachusetts Child Support Enforcement Program, if a member owes past-due child support, his/her retirement allowance (or contributions to Annuity Savings Funds if the member has requested a refund) can be attached to satisfy a child support order. Other support orders issued pursuant to Massachusetts General Laws, c. 208, c. 209, c. 209A, c. 209C or c. 273 may result in an attachment of your retirement allowance. No support order can create a benefit or entitlement to a benefit that would be inconsistent with the retirement laws.

# 29

## Exemption from Assignment

*Are my retirement benefits subject to assignment?*

No assignment of any right to an annuity, pension, or retirement allowance will be valid except:

- assignments made pursuant to certain support orders (as discussed above),
- assignments made to provide restitution in instances of dereliction of duty,
- assignments made by a member for the purpose of payment of a health or life insurance premium, for a policy related to work and in effect on the member's retirement,
- repayments of benefits paid by the Commonwealth for those individuals who have become public charges
- notice of levy issued by the Internal Revenue Service for the purposes of collecting unpaid federal tax.



# 30

## Continuation of Health and Life Insurance

*How does retirement affect my eligibility for group health and life insurance coverage?*

Provision is made in the retirement law for the withholding of monthly premiums for your continued coverage in a group health and life insurance program sponsored by the governmental unit by which you are employed at the time of retirement.

While continuation of insurance coverage for retirees is an optional matter for the various governmental units in the Commonwealth, most cities and towns have accepted the necessary provisions. Members who are considering retirement are advised to check with their retirement board about whether the relevant governmental authorities have voted to extend this benefit. Members of the State, Teachers' and City of Boston Retirement Systems are eligible to receive this benefit from the Commonwealth.

# 31

## Submission of Affidavit

*Must retirees and beneficiaries attest to certain information each year?*

No less frequently than once every two years, every public pension retiree and the surviving beneficiaries of such deceased retirees, receive affidavits from their retirement board. The purpose of this affidavit is to verify that the retiree/beneficiary is living and to update other key information such as his/her current address. Confirmation of a beneficiary's dependency status is also sought where it is relevant to continued receipt of benefits. Any retiree/beneficiary who knowingly makes false responses on this affidavit will be investigated for fraud. Anyone who signs an affidavit who is other than the retiree, his/her beneficiary, or an individual with a valid power of attorney will be investigated for fraud.

# 32

## Key Addresses and Phone Numbers

- ▶ **Public Employee Retirement Administration Commission**  
Five Middlesex Avenue  
Third Floor  
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Web: [www.mass.gov/perac](http://www.mass.gov/perac)
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  - ▶ **The Contributory Retirement Appeal Board (CRAB)**  
Office of the Attorney General  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108  
Phone 617-727-2200
  - ▶ **The Division of Administrative Law Appeals (DALA) \***  
Address as of 7/01/06:  
98 North Washington Street  
Fourth Floor  
Boston, MA 02114  
Phone 617-727-7060, x.224
  - ▶ **Massachusetts Department of Revenue**  
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Boston, MA 02204  
Attention: Taxpayer Assistance  
Phone 800-392-6089  
Web: [www.dor.state.ma.us](http://www.dor.state.ma.us)
  - ▶ **Internal Revenue Service**  
Taxpayer Assistance  
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Web: [www.irs.gov](http://www.irs.gov)
  - ▶ **Social Security Administration**  
Phone 800-772-1213  
Web: [www.ssa.gov](http://www.ssa.gov)
- \* New appeals are filed with DALA. Objections to DALA decisions are raised with the Chairman of CRAB.



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