



Labor, Employment & Benefits Alert
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Governor Patrick Signs 2011 Public Pension Reform Law

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In January, Governor Deval Patrick announced the filing of legislation to further reform the Massachusetts public pension system in an effort to cut costs and ensure the financial viability of the State's public pension system in the future. The Legislature recently passed an expanded version of this legislation that also includes provisions requested by PERAC that give PERAC more control over retirement boards across Massachusetts. On Friday, November 18, 2011, the Governor signed the bill into law. The Governor expects the legislation to save taxpayers \$5 billion over the next 30 years.

While making changes and reforms to the system, the new law seeks to maintain the traditional defined benefit system rather than switching to a defined contribution or 401(k) type structure. The new law includes the following key components that correspond with the Governor's proposal:

- Increasing the retirement age for most public employees – This provision applies to employees hired after April 2, 2012. For Group 1, the retirement age would increase from 55-65 to 60-67. For group 2, the increase would be from 55-60 to 55-62. Group 4 would see an increase in retirement age from 45-55 to 50-57. Those with 30 years of service at retirement would receive an enhanced benefit.
- Eliminating early retirement subsidies –Previously, the law encouraged those who had reached the minimum retirement age to retire before reaching the maximum retirement age, because the benefit of additional years of pension outweighed the benefit they would receive if they worked longer. This incentive has been removed.
- Increasing the “high 3” to “high 5” – For employees hired after April 2, 2012, the amount of the retiree's pension will be determined by averaging the earnings of the 5 highest earning consecutive years, rather than the current 3 highest earning consecutive years.
- Eliminating the Section 10 termination benefit – Employees hired after April 2, 2012 who are terminated through no fault of their own after 20 years of service will not be eligible for the termination retirement benefit.



- Pro-rating benefits for those who served in more than one Group – Retirement calculations for employees hired after April 2, 2012 will be pro-rated based on the length of service in each Group to prevent windfalls for those who work for a short time in a Group with higher benefits at the end of their career. Active employees as of April 2, 2012 will have the option of using this pro-rating method.
- Anti-spiking rule – Except in cases of bona fide promotions or job changes, the annual increase in pensionable earnings is capped at a maximum of 10% of the average pensionable earnings over the last two years plus inflation.
- Eliminating double dipping – An elected official may no longer receive a pension based on retirement from an elected position while also receiving compensation for current service as an elected official, unless one year has passed from the end of the elected term from which the official retired.

The PERAC governance provisions in the new law include:

- Establishing a detailed competitive procurement process that retirement boards must follow in soliciting investment, actuarial, legal or accounting services;
- Prohibiting the investment of funds by a retirement board without first receiving an acknowledgement from PERAC of receipt of certain documents and allowing PERAC to withhold the acknowledgement if it determines that it is in the best interest of the retirement system;
- Requiring vendors to inform PERAC and the retirement board annually of compensation arrangements to be received or paid relating to services provided and to provide annual disclosure of conflicts of interest. Vendors responding to a request for proposals must submit a sworn statement that the proposal is made in good faith without collusion or fraud;
- Requiring retirement board members to submit statements of financial interests;
- Prohibiting anyone receiving remuneration from a retirement board or anyone doing business with a retirement board from serving on a retirement board;
- Requiring retirement boards to submit a sworn statement that to the best of their knowledge any proposal made as part of a competitive process is submitted in good faith and without collusion and fraud;



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- Requiring certain continuing education for retirement board members; and
- Requiring employers to provide and retirement systems to maintain on file up to date collective bargaining agreements for all member units.

The new law also establishes special legislative commissions to study pension classification, accidental and ordinary disability retirement, and retiree healthcare and other benefits.

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If you have any questions or concerns about the material in this Advisory, please contact Katherine A. Hesse, Brian P. Fox or the attorney assigned to your account at (617) 479-5000.

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