



COMMONWEALTH OF MASSACHUSETTS

## THE GENERAL COURT

STATE HOUSE, BOSTON 02133-1053

Speaker Robert A. DeLeo  
State House, Room 356  
Boston, MA 02133

Senate President Therese Murray  
State House, Suite 332  
Boston, MA 02133

August 7, 2013

Dear Senate President Murray and Speaker DeLeo:

We are pleased to file the report of the Special Commission on the Commonwealth's Disability Retirement System for your consideration.

We would like to recognize the hard work of our fellow Commissioners and staff. We appreciate their contributions to our conversation about the disability retirement system and to this report. We also thank the members of the public who took the time to offer their perspective and insight into the Commonwealth's disability retirement system.

Sincerely,

A handwritten signature in blue ink, reading "William N. Brownsberger".

William N. Brownsberger  
State Senator  
2<sup>nd</sup> Suffolk and Middlesex District

A handwritten signature in blue ink, reading "John W. Scibak".

John W. Scibak  
State Representative  
2<sup>nd</sup> Hampshire District

Cc: Senator Stephen M. Brewer, Chair of Senate Committee on Ways and Means  
Representative Brian S. Dempsey, Chair of House Committee on Ways and Means  
Representative Aaron M. Michlewitz, Chair of Joint Committee on Public Service  
Senator William N. Brownsberger, Chair of Joint Committee on Public Service  
William F. Welch, Senate Clerk  
Steven T. James, House Clerk

# **Report of the Special Commission on the Commonwealth's Disability Retirement System**

## **Commission Membership:**

### *Commission Chairs*

Senator William N. Brownsberger, Chair of the Joint Committee on Public Service (2012-present)

Representative John Scibak, Chair of the Joint Committee on Public Service (2011-2012)

### *Commission Members*

Senator Stephen Brewer, Chair of the Senate Committee on Ways and Means

Joseph Connarton, Executive Director of the Public Employee Retirement Administration Commission

Representative Brian Dempsey, Chair of the House Committee on Ways and Means

Representative Ryan Fattman, Designee of the House Minority Leader

Nicola Favorito, Deputy Treasurer for Retirement Services

Richard Harris, North Reading Fire Chief

Edward Kelly, President of the Professional Firefighters of Massachusetts

Greg Mennis, Assistant Secretary of Finance and Infrastructure in the Executive Office of Finance and Administration

John Petrin, Burlington Town Administrator

Ralph White, President of the Retired State, County and Municipal Employees Association of Massachusetts

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## I. Introduction

The Special Commission on the Commonwealth's Disability Retirement System was created legislatively to review the Massachusetts laws governing disability retirement.

Chapter 176 of the Acts of 2011 delineates the charge of the special commission in Section 59 as one requiring the commission to review ordinary and accidental disability retirement, injured on-duty benefits, and presumptions for public employees within the Massachusetts General Laws:

There shall be a special commission to investigate and study all aspects of the ordinary and accidental disability provisions of the Massachusetts contributory retirement system as well as the provisions of injured on duty benefits and presumptions for public employees contained in the general laws. The commission shall consist of the chairs of the joint committee on public service, who shall co-chair the commission, the chairs of the house and senate committees on ways and means, the secretary of administration and finance, or a designee, the state treasurer, or a designee, executive director of the public employee retirement administration commission, or a designee; the house minority leader or a designee, the senate minority leader or a designee and 3 members to be appointed by the governor, one selected from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 member who shall be a member of the Massachusetts Municipal Association; and 1 member who shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than October 1, 2012.<sup>1</sup>

The Commissioners would like to recognize the improvements made to the disability retirement system over the past 30 years. In 1982, the Massachusetts legislature established a new pension regulatory agency, the Public Employee Retirement Administration (PERA), which became the oversight body of the Chapter 32 retirement law. Prior to the establishment of PERA, the Division of Insurance had had a small pension office, which had acted as the state's Chapter 32 bureau. In 1997, the legislature replaced PERA with a new, more expansive agency, the Public Employee Retirement Administration Commission (PERAC). The seven-member Commission, under the direction of an Executive Director and staff, was given strong oversight over the disability retirement system. Since its inception, PERAC has established rules and regulations, as sanctioned by the legislature. In the opinion of many observers, PERAC's oversight has resulted in a more uniform application of the chapter 32 disability laws among the 105 state and local retirement systems. The rules and regulations, which govern disability retirement application, approval, and administration, have improved and refined the Chapter 32 disability pension standards and process.

While many Commissioners feel that the system's administration has integrity, the Commission did not conduct an audit of the system, and the Chairmen's data analysis, included in Appendix D and E of this report, was limited in scope.

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<sup>1</sup> 2011 Acts 176 Section 59.

The Commission also recognizes the importance of training programs for employees of governmental organizations on the disability retirement process. In some instances, clerical errors in the process of filing a disability retirement claim may substantially slow down the review process. By providing training on the claims process, governmental organizations will reduce or eliminate the possibility that they will be financially burdened because of a clerical error made in filing the necessary paperwork.

A guide to the disability retirement system, prepared by PERAC, has been included in Appendix A of this report.

The Commission held two public hearings to seek feedback from the public about the Commonwealth's disability retirement system. Notes from the public hearing held October 15, 2012 in Boston and October 18, 2012, in Worcester, can be found in Appendix B of this report.

Appendix C includes materials provided to the Commission by Disability Management Services.

Chairmen Brownsberger and Scibak analyzed data regarding the occurrence of disability retirement in certain systems. The results of their data analysis can be found in Appendices D and E of this report.

PERAC provided an analysis of data on disability presumptions, included in Appendix F.

The Commission has included its recommendations in Section II of this report, followed by proposals by Commissioners garnering some support or requiring further review (Section III).

All Commissioners present and voting at the meeting of the Special Commission on the Disability Retirement System on July 31, 2013 voted in favor of adopting this report. The following Commissioners were present and voting at the meeting held on July 31, 2013: Chairmen William Brownsberger and John Scibak and Commissioners Joseph Connarton, Ryan Fattman, Nicola Favorito, Richard Harris, Edward Kelly, John Petrin, and Ralph White.

## **II. Recommendations of the Commission**

All recommendations of the Commission were unanimous among all Commissioners present and voting at the Commission meeting held on July 31, 2013, except where otherwise noted. The following Commissioners were present and voting at the meeting held on July 31, 2013: Chairmen William Brownsberger and John Scibak and Commissioners Joseph Connarton, Ryan Fattman, Nicola Favorito, Richard Harris, Edward Kelly, John Petrin, and Ralph White. The unanimity of the recommendations is qualified by the provisos included below in parentheses.

### **A. Increase in allowable earnings**

The Commission recommends that the legislature increase allowable earnings for disability retirees. The earnings formula, created in 1966, and most recently updated in 1982, currently allows individuals retired on disability to earn up to \$5,000 beyond the difference in their disability pension and the salary of their former position. This proposal increases this annual earnings limit from \$5,000 to \$15,000 to better reflect the change in the consumer price index, and to ensure that individuals retired on disability can meet their financial obligations.

### **B. An option of cashing out of the disability retirement system as an alternative to lifetime disability retirement**

To provide an incentive to seek an alternative career instead of a disability retirement, we recommend legislation that would allow employees who meet the eligibility standards for a disability retirement the option of cashing out of the system with a lump-sum payment in the amount of a multiple of their base compensation. That multiple could decline as a function of age (going down as employees age) to reflect the greater loss of lifetime earnings and productivity for a younger person that results from a disability-incurred injury. Although the lump sum should be defined to be less in present value than what the employee would have received through a lifetime of a disability pension, it would provide employees who would otherwise be tied to the pension system as lifetime disability retirees with a funding source to enable them to pursue opportunities to pursue training or education in other fields. They would no longer have to subject themselves to medical exams for the state, they could pursue fulfillment and contribute to society through new careers, and the state would save taxpayer dollars. Human resources departments should provide counseling to individuals considering their options so that they fully understand the irrevocability of this decision and the impact of choosing this option and so that they fully consent to their choice.

Although the Commission supported this concept, it recognizes that the tax implications of this proposal still have to be vetted.

(Commissioner Ralph White, President of the Retired State, County and Municipal Employees Association of Massachusetts, did not take a position on this proposal.)

C. Expedite the disability retirement review process: Increase the number of hearing officers.

As a part of the Commission's discussion, a great deal of emphasis was placed on examining ways by which the disability retirement review process at both the state and local level could be expedited. One of the greatest burdens on many municipalities and other public employers is that during the review process, they must continue to pay the salary of an individual receiving an injured-on-duty benefit, while also paying for an individual to fill that position. By increasing the efficiency of the disability retirement review process, governmental systems will not have to pay two individuals for an extended period of time. Expediting the process will also ensure that employees' claims are processed efficiently and effectively. To that end, members of the Commission unanimously recommended increasing the number of hearing officers, to begin to undo some of the backlog that slows down claims processing within the disability retirement system.

D. Create a smoking cessation program for firefighters, police officers, and corrections officers.

This proposal would institute a one-strike policy that would allow a firefighter, police officer, or corrections officer found smoking the opportunity to join a smoking cessation program, rather than being immediately terminated. Under this proposal, a subsequent violation would be cause for dismissal.

The Commission recognizes that the relevancy of this proposal to its charge is questionable, but the issue of the zero tolerance policy for smoking arose in the context of a conversation about the current situation, which allows for a firefighter who has a substance abuse problem to seek and receive drug/alcohol treatment following the first offense and termination only occurring after a subsequent offense. In contrast, the zero tolerance policy for smoking does not permit an individual to seek and receive treatment (i.e., smoking cessation) prior to termination. Should a one-strike policy be considered, the issue of lung presumption for firefighters who have been found smoking and whether they are eligible for accidental disability retirement or would forego their lung presumption upon entering a smoking cessation program was debated but not resolved by the Commission.

(Chairman Brownsberger and Commissioner Fattman would support this proposal, provided that the proposal found in Section III (F) was also adopted, rendering the question of presumptions irrelevant in a system in which disability applicants need not prove that their injury took place on the job.)

### III. Proposals with Some Support, Requiring Further Review

The following proposals garnered support from some, but not all, Commissioners. They require further vetting due to the need for additional research or the resolution of legal concerns.

A. Raise the ordinary disability age factor for all individuals retired under ordinary disability from 55 to 60.

This proposal would increase the age factor for non-veterans to 2.0%, rather than the current 1.5%.

B. PERAC should oversee the State Police disability retirement system.

To improve consistency and equity in the disability retirement system, this proposal would place the State Police disability retirement system under the oversight of PERAC. The commission recommends merging the State Police disability retirement process with the state retirement board's process.

(Commissioner Nicola Favorito, Deputy Treasurer for Retirement Services, did not take a position on this proposal.)

C. Local boards should pay for or reimburse PERAC for the costs of medical panel physicians and examinations.

This proposal would transfer the costs of medical panel physicians and examinations for municipal employees from PERAC to the local retirement board responsible for those employees.

D. Retirement boards should have the authority to request personnel records in conjunction with an application filed for accidental disability benefits.

This proposal would enable retirement boards to obtain statements regarding pre-existing conditions, relevant personnel records (e.g. pre-employment physicals), or other relevant information prior to rendering a decision regarding accidental disability benefits.

E. If a member of a retirement board retires under superannuation and later qualifies for ordinary disability, the age factor shall remain at the age at which the person retired under superannuation.

This proposal would "freeze" the age factor at the age when the employee retired under superannuation regardless of whether the employee subsequently qualifies for ordinary disability.

F. Fold accidental and ordinary disability retirement into one disability retirement system.

The disability retirement system should protect all public employees in the Commonwealth with a disability, regardless of whether an employee's disability-incurred injury took place on or off the job. The disability retirement system should function as a kind of



disability insurance: a safety net for all employees. As such, disability retirees should be treated the same in terms of eligibility and benefits, regardless of where they incurred an injury. This proposal would do away with separate categories, eligibility criteria, and benefits for ordinary and accidental disability retirees. By placing all disability retirees under the same umbrella, employees seeking disability retirement would no longer have to prove causation-- that their job caused their disability. As a result, our recommended legislation would do away with the need for presumptions. To be eligible for disability retirement benefits, an employee would need to demonstrate 1) that he or she is unable to perform the essential duties of his or her job due to a disability incurred since beginning his or her employment and 2) that such inability is likely to be permanent. The legislation should do away with a minimum years-of-service requirement to insure a disability retirement safety net for all employees. Benefits should be calculated as a percentage of the salary the employee was receiving at the time he or she sustained his or her disability-incurred injury; this percentage should be comparable to or higher than rates provided by long-term disability insurance. As a point of reference, the Group Insurance Commission's Long-Term Disability Insurance is structured in the following way:

If you are unable to work for 90 consecutive days due to illness or injury, this program will provide participants with. Benefits include:

- A tax-free benefit of 55% of a participant's gross monthly salary, up to a maximum benefit of \$10,000 per month, up to the age of 65. If disabled on or after age 62; benefits may continue after age 65;
- A separate benefit for mental health disabilities and for partial disabilities;
- A rehabilitation and return-to-work assistance benefit; and
- A dependent care expense benefit.

Benefits are reduced by other income sources, such as Social Security disability, Workers' Compensation, and accumulated sick leave and retirement benefits. You must notify the plan if you begin receiving other benefits. The minimum benefit will be \$100 or 10% of your gross monthly benefit amount, whichever is greater.<sup>2</sup>

It is worth considering incorporating some of these other components of long-term disability insurance into the Commonwealth's disability retirement system, as well.

To provide an incentive to seek an alternative career instead of a disability retirement, this proposal would allow employees who meet the eligibility standards for a disability retirement the option of cashing out of the system with a lump-sum payment in the amount of a multiple of their base compensation. That multiple could decline as a function of age (going down as employees age) to reflect the greater loss of lifetime earnings and productivity for a younger person that results from a disability-incurred injury. Although the lump sum would likely be less than what they would have received through a lifetime of a disability pension, it would provide employees who would otherwise be tied to the pension system as lifetime disability retirees opportunities to pursue training or education in other fields. They would no longer have to subject themselves to medical exams for the state, they could pursue fulfillment and contribute to society through new careers, and the state would save taxpayer dollars.

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<sup>2</sup> "Long-Term Disability (LTD) Overview." *The Official Website of the Executive Office of Administration and Finance*. Executive Office of Administration and Finance, 2013. Web. 11 Apr. 2013.  
<<http://www.mass.gov/anf/employee-insurance-and-retirement-benefits/employee-health-and-other-insurance-benefits/long-term-disability/ltd-overview.html>>.

G. Increase compensation for medical panel participants.

To attract the most highly qualified experts, this proposal would increase compensation for medical panel participants. Consideration should also be given to replacing the current three-member medical panel with a single medical expert at a higher rate. This may shorten the time frame for reaching a decision.

H. Require physical examinations for all employees prior to employment.

This proposal needs to be reviewed in light of employment law requirements and restrictions.

I. Convert all disability pensions to superannuation pensions once members reach retirement age.

Under this proposal, any individual receiving a disability pension would automatically convert to superannuation once he or she reaches retirement age. Under this proposal, years of service used in the calculation for superannuation would include those years that the individual received a disability pension and the pension would be based on the existing salary for the position at the time of conversion to superannuation.

J. Create a new infectious disease presumption for public safety officers.

Under this proposal, certain public safety officers/employees (e.g., paid, uniformed firefighters, paid permanent police officers, corrections officers, or employees of a municipal emergency medical service) that become dead or disabled as a result of any contagious disease shall be presumed to have suffered such health condition in the line of duty; provided, such condition was not pre-existing, unless it is shown by a preponderance of the evidence that non-service related risk factors caused such incapacity. This presumption would not apply to any person serving in the position for less than five years at the time that condition is discovered.

K. Mandate that municipalities offer long-term disability for all employees.

In further review of this proposal, the Commission recommends further investigation of how many communities currently offer long-term disability insurance, why some cities and towns opt not to offer this insurance, what percent of employees enroll, and why some employees do not enroll.

L. Create a partial or tiered disability retirement system.

Disability retirees are no longer able to perform the job from which they retired with a disability, but they may be able to work a job in a different capacity. For example, a police officer who suffered a back injury and received a disability pension would be unable to continue to work as a police officer. That officer, however, may have the ability and desire to work in an

office setting, but the earnings cap may be a disincentive.<sup>3</sup> Partial or tiered retirement benefits could result in greater earning potential for the employee and savings for the employer.

The current system is based on an all-or-nothing philosophy. If you retire from a position, you are prohibited from working in the public sector in Massachusetts in the future. We heard testimony that people who may have to retire on disability from one position could work in another position. For instance, a police officer who has hurt a leg could be a teacher. A system should be developed to allow a disabled employee to blend a portion of that retirement benefit with the prospects of being able to serve in another position that is not inhibited by that disability.

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<sup>3</sup> See also the Commission's first recommendation to increase allowable earnings.

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# APPENDICES

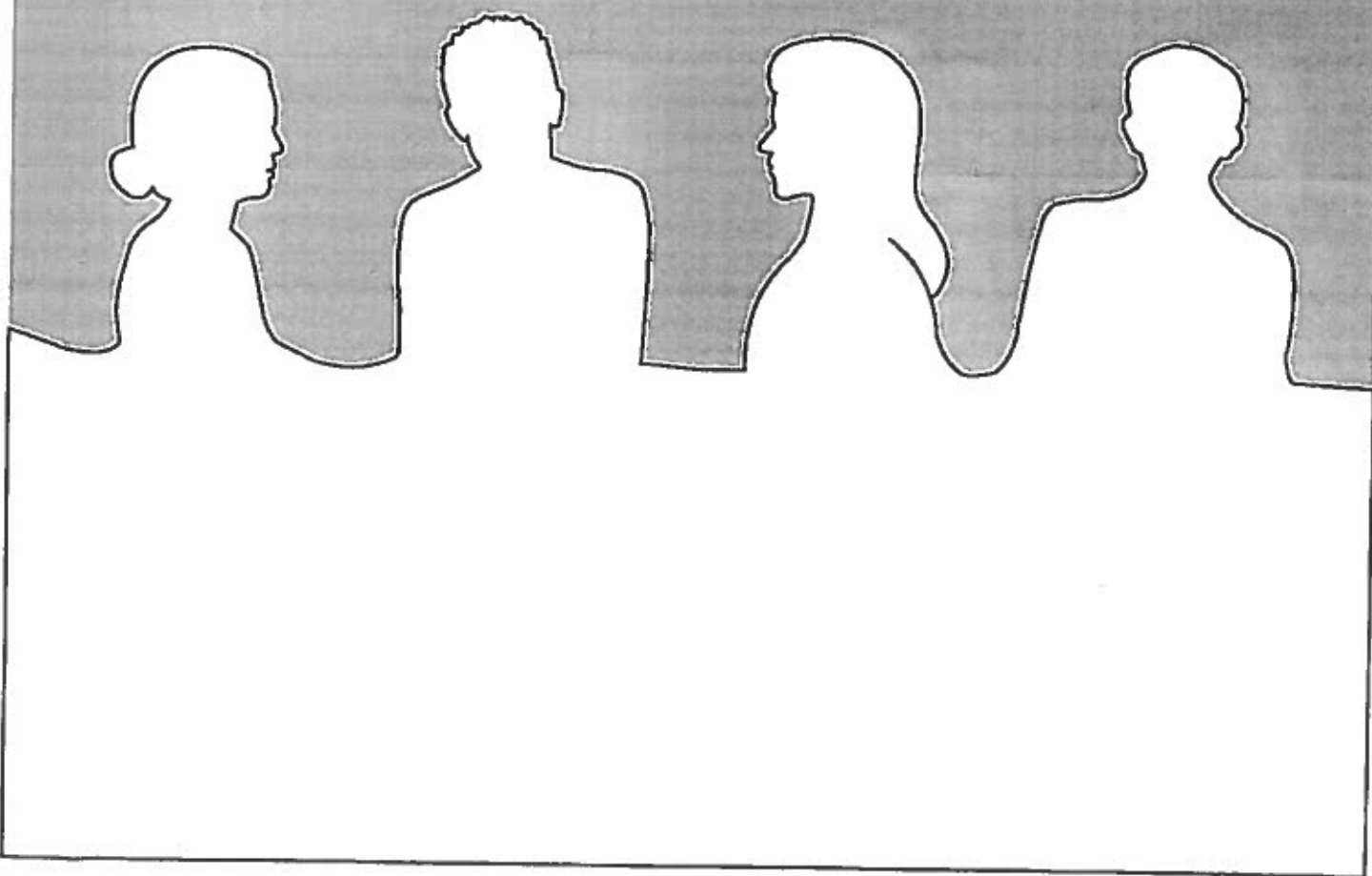
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# Appendix A

MASSACHUSETTS PUBLIC EMPLOYEE

# Guide to Disability Retirement

(Regardless of the Date of Membership)



**Commission Members**

**The Honorable Domenic J. F. Russo**  
*Chairman*

**The Honorable Suzanne M. Bump**  
**Auditor of the Commonwealth**  
*Vice Chairman*

**Alan G. Macdonald**  
**President Emeritus**  
**Massachusetts Business Roundtable**

**James M. Machado**  
**Sergeant, Fall River Police Department**

**Donald R. Marquis**  
**Former Town Manager, Arlington**

**Robert B. McCarthy**  
**President Emeritus of the**  
**Professional Firefighters of**  
**Massachusetts**

**Gregory R. Mennis**  
**Assistant Secretary**  
**Finance and Infrastructure**  
**Executive Office for**  
**Administration and Finance**

**Joseph E. Connarton**  
*Executive Director*

**Public Employee Retirement**  
**Administration Commission**  
**Five Middlesex Avenue**  
**Suite 304**  
**Somerville, MA 02145**

**Phone** 617 666 4446  
**Fax** 617 628 4002  
**TTY** 617 591 8917  
**Web** [www.mass.gov/perac](http://www.mass.gov/perac)



# GUIDE TO DISABILITY RETIREMENT

for Public Employees

This guide is designed to familiarize you with procedures applicable to the disability retirement of public employees who are members of Massachusetts contributory retirement systems. 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 (PERAC) shall govern. For procedures applicable to public employee retirement generally, members should refer to PERAC's Massachusetts Public Employee Retirement Guides and PERAC's Guides to Survivor Benefits for Public Employees. There are different guides on these topics depending upon a person's date of membership in the retirement system.

► **Updates to This Guide**

This guide reflects changes and amendments to the law through the enactment of Chapter 176 of the Acts of 2011.

► **Additional Copies**

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

♻️ Printed on recycled paper.



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## Disability Retirement

There are two types of disability for which public employees may be retired: Accidental and Ordinary.

# 1

## 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 or her from performing the essential duties of his or her position because of a personal injury sustained or a hazard undergone while in the performance of his or her duties at a definite time and place and without serious and willful misconduct on his or her part, he or she is eligible to apply.

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

#### **Maximum Age for Group**

Firefighters, municipal police officers, correction officers, and state court judges must apply before reaching the maximum age for their group.

### → *Do applicants for accidental disability retirement have to meet any minimum service or age requirements?*

No.

### → *Must I be a member-in-service to apply for accidental disability retirement?*

A public employee applying for an accidental disability allowance need not be a member-in-service at the time of application. An applicant must be a member-in-service at the time of the injury, and must become permanently disabled while still a member-in-service.

### → *May I receive an accidental disability allowance from one retirement system while continuing to be a member-in-service of another system?*

If you are eligible to receive an accidental disability allowance 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.

## Notice of Injury Requirement

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

If you have an accident on the job, or are exposed to a health hazard, it is extremely 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 or hazard 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.

Proof of receipt of Workers' Compensation benefits may fulfill the notice requirement for those members covered by Workers' Compensation. Official departmental records may be utilized for members who are not covered by Workers' Compensation.

## 2 Presumptions

There are certain presumptions that apply only to certain public safety personnel. These presumptions include:

### HEART LAW

#### → *What is the Heart Law and to whom does it apply?*

Under a special provision of state law, disability caused by heart disease or hypertension is presumed to be suffered in the line of duty for any employee who is: a uniformed member of a paid fire department or permanent member of a police department, or the state police, or of the public works building police, or any employee in the department of correction or a county correctional facility whose regular or incidental duties require the care, supervision, or custody of prisoners, criminally insane persons, or defective delinquents, or any permanent crash crewman, crash boatman, fire controlman, or assistant fire controlman employed at the General Edward Lawrence Logan International Airport or members of the Massachusetts military reservation fire department.

Any such employee must have successfully passed a physical examination on or after the date of hire, which failed to reveal any evidence of such condition.

A retirement board is required to presume that the heart disease or hypertension was caused by the job, unless the contrary can be shown by competent evidence. The employee must become incapacitated by the condition while still a member-in-service.

### LUNG LAW

#### → *What is the Lung Law and to whom does it apply?*

Any impairment of health which is caused by disease of the lungs or respiratory tract in uniformed members of a paid fire department, or any permanent crash crewman, crash boatman, fire controlman, or assistant fire controlman employed at the General Edward Lawrence Logan International Airport, or a member of the Massachusetts military reservation fire department, shall be presumed to have been suffered in the line of duty as a result of the inhalation of noxious fumes or poisonous gas, unless it is found that there is competent evidence to the contrary. Such individuals must have successfully passed a physical examination on or after their date of hire, which failed to reveal any evidence of such condition. The employee must become incapacitated by the condition while still a member-in-service.

### CANCER PRESUMPTION

#### → *What is the Cancer Presumption?*

Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, or prostate systems, or lung or respiratory tract, resulting in total disability or death shall be presumed to have been suffered in the line of duty, unless it is shown by a preponderance of the evidence that non-service connected risk factors or non-service connected accidents or hazards undergone, or any combination thereof, caused such incapacity.

#### → *To whom does the Cancer Presumption apply?*

It applies to uniformed members of a paid fire department, or a member of the state police assigned to the fire investigation unit of the department of fire services, or a member of the state police K-9 unit or permanent crash crewman, crash boatmen, fire controlmen, or assistant fire controlmen employed at the General Edward Lawrence Logan International Airport or members of the Massachusetts military reservation fire department. To be eligible, a person must have been actively employed in one of the above named positions on or after July

5, 1990 (effective date of the Cancer Presumption legislation), and must establish that he or she has regularly responded to calls of fire during some portion of his or her service, and must have served for not fewer than five years at the time such condition is first discovered, or should have been discovered. Such individuals must have successfully passed a physical examination on or after their date of hire, which failed to reveal any evidence of such condition. Individuals who first discover such cancer within five years of the last date of his or her active service are also eligible to apply for benefits.

***→ How is the Cancer Presumption applied?***

It shall only apply if the disabling or fatal condition is a type of cancer which may, in general, result from exposure to heat, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer. The presumption will also apply to any condition of cancer (other than those listed in the response to the question above) which may, in general, result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, and the incidence of which is found by regulation by the Commissioner of Public Health to have a statistically significant correlation with fire service.

## HEALTH AND FITNESS STANDARDS

Chapter 31 of the Acts of 1987 directs the Commonwealth's Personnel Administrator to establish initial and in-service health and physical fitness standards for police officers and firefighters. These standards are applicable to police officers and firefighters who are appointed after November 1, 1996, and who are working in cities and towns that accept the applicable provisions of Chapter 31. Please contact the Commonwealth's Human Resources Division for further information about the standards and their implementation.

***→ Is a police officer or firefighter considered disabled if he or she fails to pass such an in-service examination?***

No, failure to pass such an examination does not create a presumption of disability for pension purposes.

# 3 Ordinary Disability: Eligibility

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

Any member is eligible, provided that they meet the service requirements listed below, whose permanent incapacitation, due to sickness or injury that is not work-related, prevents him or her from performing the essential duties of his or 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 15 years of creditable service.

### Veterans

Members who are veterans must have been granted at least ten years of creditable service.

## 4 Involuntary Retirement

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

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 does the process begin, and do I have any immediate recourse if I feel I should not be retired?

Your department head will 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. Some members may request a hearing before the retirement board with 15 days of receiving a copy of the form. Whether you have the right to ask for a hearing depends upon certain factors which are outlined below.

#### **Members Prior to April 2, 2012**

If you were a member before April 2, 2012, and you are a member-in-service classified in 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 20 or more years of creditable service, you may request a hearing before your retirement board..

#### **Individuals Who Became Members On or After April 2, 2012**

If you became a member of a retirement system on or after April 2, 2012, and you are a member-in-service classified in Group 1, Group 2 or Group 4 who has attained age 60 and completed 15 or more years of creditable service, or if you haven't attained age 60 but have completed 20 or more years of creditable service, you may request a hearing before your retirement board.

### → Will the process include a medical examination and evaluation?

If you are not entitled to an initial hearing and/or the 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 55 and completed 15 or more years of creditable service, or any member so classified who has not attained age 55 but who has completed 20 or more years of creditable service, or any such member who is a veteran and has been granted 10 or more years of creditable service may seek review of such action in the district court in the district in which he or she resides within 30 days after the certification of the retirement board's decision.

## 5 Disability Application

### → What form should I use to apply for disability retirement?

Whether you are applying for accidental or ordinary disability retirement or both (because of uncertainty about which is appropriate for your circumstances), you must file a *Member's Application for Disability Retirement* with your retirement board.

### → Where can I obtain a Member's Application for Disability Retirement and guidance in how to complete it?

Your retirement board will provide you with a copy of the application. The retirement board staff will help you to understand the process, and will respond to your questions as things progress. You may also download a copy

of the application form from PERAC's Home Page on the Internet: [www.mass.gov/perac](http://www.mass.gov/perac).

→ **What information must I include in my Member's Application for Disability Retirement?**

The *Member's Application for Disability Retirement* is a multi-page form. In order to complete your application, you must provide:

- A statement of your job duties
- Your employment history
- Statements about your background, qualifications, and recent physical activities
- The reason for accidental disability
- Information about incident reports and witnesses
- Information about filing for a grievance, Workers' Compensation, or Section 111F benefits
- Information about emergency medical treatment
- A listing of all hospitals and medical facilities from which you sought treatment within the last five years
- A listing of physicians with whom you have consulted or from whom you sought treatment within the last five years
- The name and address of your personal physician
- If you are represented by an attorney in connection with your application, the name and address of your attorney
- The name and address of relevant insurance carriers
- Authorizations for release of insurance records, medical records, and tax records
- Your regional medical panel selection choice

**Date of Application**

You must complete the *Member's Application for Disability Retirement* in its entirety and file it with your retirement board. Until all of the required information has been submitted, your retirement board cannot assign a date of application, which will be very important in determining your effective date of retirement and your retirement allowance date.

**Information From Other Parties**

Upon receipt of your disability retirement application, your retirement board will request written information from your employer on a prescribed form about the essential duties that you are required to perform in your current position and other information. The retirement board will ask your personal physician to complete a form that contains a diagnosis of your condition, as well as information about your medical treatment and history. He or she will be asked to assess your ability to perform your job duties, and to discuss whether or not your disability is likely to be permanent. Please note that, if you choose to do so, you may personally convey the form to your physician. Your board will request copies of records from the other physicians, hospitals, and insurance companies that you identified in your application.

When all of the required documents have been received, your retirement board will ask PERAC to appoint a medical panel to examine you.

→ **What time frames govern the disability retirement application and determination process?**

The regional medical panel should meet within 60 days of being appointed by PERAC to conduct its examination.

- You will be given 14 days notice of the scheduled examination.
- The regional medical panel will report their findings and recommendations to PERAC within 60 days of completing their examination(s).
- Within 5 days of receipt of a properly completed medical report, PERAC will forward the report to your retirement board.
- Within 30 days of its receipt of the report, your retirement board will notify you of the panel's findings and provide you with a copy of all of the documents completed by the regional medical panel.
- Your retirement board has the option at this point of requesting further information or a clarification from the regional medical panel if they determine that it would be helpful.

- If the determination of the regional medical panel precludes retirement for the disability you claimed, your retirement board will either deny your application or they will ask PERAC for a new regional medical panel if they believe that circumstances warrant it.
- If PERAC declines to schedule a new examination, your retirement board will deny your application.
- If the determination of the regional medical panel permits retirement for the disability you claimed, your retirement board shall determine whether or not to approve the application. A hearing may be held on any disability retirement application, and must be held upon your request.
- If a hearing is scheduled, your board must give you at least 30 days notice of the time and place for the hearing and the issues involved.
- Your retirement board's decision about your eligibility for disability retirement must be made no later than 180 days after you file your completed application, unless PERAC grants an extension.
- If your retirement board approves your application, it will be transmitted to PERAC for final action. PERAC must act on your application within 30 days of its receipt.
- PERAC will either approve your application, or remand your application to the retirement board for further action.
- If your retirement board denies your application, your retirement board will advise you of your right to appeal the decision.

## 6 Standard to be Applied

### → *What standard determines whether I am incapacitated?*

Your retirement board must find that you are permanently incapacitated from performing the essential duties of your position. If you are applying for an accidental disability retirement, your retirement board must also find that your incapacity is the natural and proximate result of sustaining an injury or undergoing a hazard as a result of, and while in the performance of your duties, at a definite time and place, without willful and serious misconduct on your part.

### → *What is the definition of an essential duty?*

Essential duties are those duties or functions of a job or position that must necessarily be performed by an employee to accomplish the principal object(s) of the job or position. The essential duties are those that bear more than a marginal relationship to the job or position. Your employer makes the determination of what constitutes an essential duty within the context of the PERAC guidelines.

## 7 Regional Medical Panel Examinations

### → *When will a medical panel be appointed to examine me?*

When your retirement board determines that your application for accidental or ordinary disability retirement is complete, the board (which meets at least once each month) may petition PERAC to appoint a three-member, independent regional medical panel, paid for by PERAC, to examine you. No physician who has already examined or treated you, except as part of a prior disability medical panel, can be appointed to a panel to examine you.

### → *May physicians who are associated with each other serve together on a medical panel?*

PERAC will not appoint physicians who have a direct and substantial financial interest in each other's practice, unrelated to their service on PERAC appointed medical panels, to serve with each other on a medical panel. The statute provides that physicians who provide services through a disability review organization



are not "associated" unless they have a direct and substantial financial interest in the profit and loss of the organization.

## SEPARATE SINGLE PHYSICIAN EXAMINATIONS

***→ Do the three physicians who are appointed to my medical panel have to conduct a joint examination?***

You have the right to request three separate single physician examinations when you file your disability application. Such separate examinations can be scheduled by PERAC to take place on three separate days, in three separate locations. If you do not request separate single examinations at application filing time, PERAC will generally schedule a joint examination. In instances where a joint examination cannot be convened in a timely manner, PERAC may schedule separate single physician examinations instead.

You may request separate examinations at any time prior to a joint examination date, but PERAC will not ordinarily consider requests for separate examinations less than 48 hours prior to a scheduled joint examination.

***→ If I undergo three separate examinations, will the examining physicians each write his or her/ own report?***

Yes.

## REGIONAL MEDICAL PANEL FINDINGS

***→ What questions must be addressed by the members of a regional medical panel?***

The members of the regional medical panel must answer whether or not they find that you are unable to perform the essential duties of your job and whether such incapacity is likely to be permanent. In the case of an accidental disability retirement, the physicians must also state whether or not your disability is such as might be the natural and proximate result of the accident or hazard upon which your retirement application is based. The physicians must submit a written report in support of the conclusions that they reach.

***→ Do all three physicians on a regional medical panel have to agree about the findings?***

No. In a situation where two of the three members agree but the third physician doesn't agree with them, the physician who is not in agreement with the majority finding must submit a minority report in support of his or her own conclusions.

## SCHEDULING/RESCHEDULING

***→ Who schedules regional medical panel examinations?***

PERAC's Disability Unit staff members schedule medical panel examination(s) for disability retirement applicants. You will be given at least 14 days written notice in advance of your appointment date(s), time(s), and location(s).

***→ Under what circumstances may I request that a regional medical panel examination be rescheduled?***

You may request that an examination be rescheduled only for compelling personal reasons including, for example, a death in the family or your own hospitalization. In the event you are unable to attend a scheduled examination, you should notify PERAC immediately.

If your request to reschedule your examination hasn't been approved, and you fail to keep your appointment, your application may be denied and you may have to reimburse PERAC for the cost of the appointment before a new examination will be scheduled.

## REPRESENTATION

### **→ May my own doctor and attorney attend the exam(s)?**

When an examination(s) has been scheduled, you will be notified in writing of your right to have legal counsel and your physician attend the examination. Please note that it is your responsibility to notify them of the date(s), time(s), and location(s) of the examination(s). In addition, your employer may also have legal counsel and a physician attend your examination(s).

At your discretion, your physician's discretion, and the discretion of your employer and its physician, such physicians may answer questions from the panel, but they will have no vote in the final determination made by the panel.

PERAC will pay your physician a fee at a state-established rate for each examination attended, provided a third party does not reimburse such fees.

## APPLICANT'S ATTENDANCE AT REGIONAL MEDICAL PANEL EXAMINATION

### **→ Is a disability retirement applicant required to attend the regional medical panel examination?**

In general, the applicant must be present for the examination. However, in a limited set of circumstances, exceptions are permitted. In accordance with PERAC guidelines, the requirement for a regional medical panel examination can be satisfied by the submission of records to be reviewed by three physicians appointed by PERAC, provided the following conditions are met:

- The application must be a voluntary disability retirement application filed by the member, not an involuntary disability retirement application filed by the employer.
- The completed application must have been on file with the retirement board for at least 15 days.
- The member must reside more than 150 miles from Boston.
- The member must waive his or her right to attend the examination, in writing.
- The member's employer must waive his or her right to attend the examination, in writing.
- The member's physician must provide a statement detailing the medical reason, accompanied by supporting medical documentation, that would prevent the member from traveling to an examination.

### **→ What materials does a member have to submit to his retirement board when requesting the appointment of a regional medical panel for an examination based on a review of the records?**

Documentation supportive of each of the conditions listed above must be submitted, as well as a completed *Member's Application for Disability Retirement* (described under the section of this guide entitled, "Disability Application").

After PERAC has scheduled the regional medical panel examination of records, PERAC's Medical Panel Unit will notify your retirement board and require your board to submit complete medical records and all other required documents to the medical panel physicians in the same manner as if you were being examined.

## POSTHUMOUS REGIONAL MEDICAL PANEL EXAMINATION OF RECORDS

### **→ Is a disability retirement automatically precluded if a member dies before a regional medical panel can examine him or her?**

The member's retirement board may ask for a posthumous medical panel examination of records if the

member's completed disability retirement application had been on file with the retirement board for at least 15 days prior to the member's death.

## AFTER THE REGIONAL MEDICAL PANEL EXAMINATION

### ***→ Does the regional medical panel have a time frame in which to complete its work?***

The regional medical panel has 60 days in which to submit its report to your retirement board through PERAC.

### ***→ When will my retirement board inform me of the medical panel's findings?***

Your retirement board must notify you and your employer of the panel's findings within 30 days of their receipt of the medical panel report or, in the case of separate examinations, within 30 days of receipt of the last of the three separate reports.

### ***→ What happens to my application if the medical panel does find me to be disabled?***

Your retirement board will consider the report(s) of the regional medical panel and determine whether or not to approve your application. While the regional medical panel report is a very important element in the retirement board's consideration, it is only part of the information that must be reviewed by the board.

### ***→ Will there be a hearing?***

The board may hold a hearing on any disability retirement application, and must hold a hearing upon your request.

Retirement board hearings are conducted in accordance with PERAC's Standard Rules for Disability Retirement, 840 CMR 10.12. These regulations cover notice, discovery, and conduct of the hearing, evidence, and subpoenas. Your retirement board or PERAC will furnish you with a copy of the regulations upon request.

### ***→ What if I apply for accidental disability retirement, but my board approves an ordinary disability retirement for submission to PERAC?***

If PERAC approves an ordinary disability retirement in light of your retirement board's findings, the regional medical panel's report, and other evidence, you may be retired for ordinary disability provided you meet the other eligibility requirements for ordinary disability.

### ***→ What happens if both the regional medical panel and my retirement board find me to be disabled?***

PERAC's staff will review your disability application. PERAC may return any application to the board for further action, within 30 days of its receipt, if PERAC finds the board's decision to have been made upon unlawful procedure, unsupported by substantial evidence, arbitrary and capricious, or a result of fraud or misrepresentation.

When your application has been approved by PERAC, or if no action is taken by PERAC within 30 days, your retirement board will notify you that your application for disability retirement has been granted.

### ***→ What happens to my application if the medical panel does NOT find me to be disabled?***

You have a right to request a hearing before your retirement board upon your notification about the findings of the medical panel. Your retirement board may deny your application, or the board may seek additional information or clarification from the panel, or it may petition PERAC to schedule a new examination.

If your board requests a new examination, PERAC will either schedule a new panel examination or decline to do so. In the event PERAC declines to schedule a new panel examination, the board must deny your application.

If your application is denied, you must be notified of your right to appeal the denial of your application to the Contributory Retirement Appeal Board. Please see the section of this guide pertaining to appeals.

→ *Is there a deadline by which my retirement board must complete action on my disability application?*

Your retirement board has 180 days from the filing of your application to make a final determination. If circumstances warrant, an extension may be granted by PERAC.

## 8 Effective Date of Allowances

### ACCIDENTAL DISABILITY

→ *When will my accidental disability retirement allowance become effective?*

An accidental disability retirement allowance will become effective (for Group 1, 2, and 4 members) on the date your injury was sustained or the hazard undergone, which formed the medical basis for your retirement; or on the date six months prior to your filing a written application with your retirement board, or on the date you last received regular compensation from your employer, whichever date last occurs.

### ORDINARY DISABILITY

→ *When will my ordinary disability retirement allowance become effective?*

An ordinary disability retirement allowance will become effective on the date of your retirement. Your retirement date may not be less than 15 days or more than four months after the date your application is filed. Also, it may not be later than the date on which you will reach the maximum age for your classification, or earlier than the last day for which you received regular compensation.

### EFFECT OF RE-ENTERING SERVICE ON ELIGIBILITY FOR ORDINARY DISABILITY

→ *Will my re-entry into service after a separation from service affect my eligibility for an ordinary disability retirement allowance?*

Any member who has re-entered service is not eligible to receive an ordinary disability retirement allowance until they have returned to active service for two consecutive years. This two-year requirement will not apply if the member was eligible to receive a termination retirement allowance, or had 10 years of creditable service prior to the last separation from service. In a few systems that have not adopted the 10-year ordinary disability provision, the member must have 15 years of creditable service.

## 9 Disability Retirement Benefits

### ACCIDENTAL DISABILITY: ALLOWANCES

→ *What makes up an accidental disability retirement allowance?*

An accidental disability allowance consists of two parts: an annuity and a pension. The allowance is payable on the last day of each month.

#### ***→ How is my annuity calculated?***

##### **Annuity**

Your annuity is based upon your total accumulated deductions, with related interest, and your age on the date of retirement.

#### ***→ How is my pension calculated?***

##### **Pension**

Your yearly pension is equal to 72% of the annual rate of regular compensation that you were earning on the date your injury was sustained, or 72% of the average annual rate of regular compensation for the twelve month period for which you last received regular compensation, whichever amount is greater.

Your yearly pension portion of the allowance if you are working in a permanent position will be equal to 72% of the annual rate of regular compensation on the date such injury was sustained or such hazard was undergone.

If you are injured and return to work in a permanent position and your initial injury is exacerbated by a later on-the-job injury your pension will be 72% of the average annual rate of regular compensation on the date of the later injury that exacerbated the initial injury. Thus, if you received salary increases, returned to work, and later were re-injured, the formula will take the salary increase into consideration.

If you are in a temporary or acting position on the date your injury was sustained or hazard undergone, the retirement allowance is based on the annual rate of regular compensation in your permanent position on the date such injury was sustained or such hazard was undergone, or the average annual rate of your regular compensation in your permanent position for the 12-month period for which you last received regular compensation immediately preceding the date your retirement allowance becomes effective, whichever is greater.

For any employee who was not a member-in-service on or before January 1, 1988 or who has not been continuously a member in service since that date, the total yearly amount of the sum of such pension and the annuity as determined shall not exceed 75% of the annual rate of regular compensation; and provided that no individual who was a member-in-service on January 1, 1988, whose allowance is limited by the 75% limitation as established in this paragraph, shall receive an amount of pension that is less than 72% of such individual's regular compensation on January 1, 1988;

Members retiring under one of the presumptions, G.L. c. 32, §§ 94, 94A, and 94B need not provide an injury date. In presumption cases, the date of injury for purposes of calculating the allowance will be the date that the member last received regular compensation.

## **ADDITIONAL PENSION FOR CHILDREN**

#### ***→ Is there an additional pension benefit to which I am entitled if my children are eligible?***

##### **Systems that have not accepted G. L. c. 32, § 7(2)(a)(iii)**

In systems that have not elected to accept the provisions of G. L. c. 32, § 7(2)(a)(iii), you will receive a yearly amount of additional pension of \$312.00 for each of your surviving, unmarried children who are under the age of 18, or who are over said age but physically or mentally incapacitated from earning on the date of your retirement, or who are over age 18 but under age 22 and a full-time student at an accredited educational institution.

##### **Systems that have accepted G. L. c. 32, § 7(2)(a)(iii)**

After July 1, 1988, if you were a member of the State Retirement System, the Teachers' Retirement System, or any other system electing to accept the provisions of G. L. c. 32, § 7(2)(a)(iii), the yearly amount of additional pension you received on account of each of your eligible children was \$450.00. However, this amount has been increased by an amount equal to the percentage increase of the cost-of-living each year, as determined

by the General Court for retirement allowances, pensions, and annuities. As of July 1, 2011, the additional annual pension for eligible children was \$751.80.

**→ How long will I continue to receive an additional pension on account of my children?**

Payments will continue as long as the child survives, remains unmarried and is under age 18 or if the child is over age 18, for so long as the child remains a full-time student at an accredited educational institution and is under 22 years of age. If a child is physically or mentally incapacitated from earning, payments would continue for the duration of the child's incapacity.

## LIMITATION ON BENEFITS

**→ Is there a limitation on the retirement allowance payable to an accidental disability retiree?**

There is a limitation on the allowance of any Group 1, 2, or 4 retiree, regardless of classification, who became a member-in-service after January 1, 1988, or who has not been a member-in-service continuously since January 1, 1988.

The annual retirement allowance (the sum of pension and annuity, exclusive of payments made for eligible children) of such retirees cannot exceed 75% of the annual rate of regular compensation used to calculate the allowance.

**→ I was a member-in-service on or before January 1, 1988. Is my accidental disability retirement allowance subject to this limitation?**

No, provided your member-in-service status has been continuous since that date. However, if your service has not been continuous since January 1, 1988, your allowance will be subject to the limitation.

## WORKERS' COMPENSATION OFFSET/ACCIDENTAL DISABILITY

**→ Am I required by law to file for the Workers' Compensation benefits to which I am entitled?**

If the injury for which you seek accidental disability benefits is also covered by Workers' Compensation benefits, you must, as a condition to filing for disability retirement, also file for Workers' Compensation benefits. If you neglect to file, your retirement board will file on your behalf. Failure to cooperate with your retirement board will result in suspension of your right to receive a disability retirement allowance.

**→ Does my receipt of Workers' Compensation payments affect my accidental disability retirement allowance?**

If the payments that you receive under Workers' Compensation are based on the same injury for which you retired, your Workers' Compensation benefit will be offset against your retirement allowance, and will reduce the pension portion of your allowance, leaving the annuity portion unaffected. Workers' Compensation payments that are based on a different injury will not affect your retirement allowance.

## THIRD PARTY RECOVERY/ACCIDENTAL DISABILITY

**→ Must recovery be sought from "third parties" that cause the accidental disability or death of public employees?**

Members or their beneficiaries who are entitled to accidental disability or death benefits must exercise their right to recover lost wages from such third parties. Amounts recovered on account of lost wages are offset against the pension benefit and, therefore, reduce the pension portion of the retirement allowance.

***→ What steps must a retirement board take if a member or beneficiary fails to fully prosecute such rights?***

Retirement boards may prosecute such rights on a member's behalf. If a member or beneficiary fails to cooperate, the board may, during the period of such failure, suspend the right of the member or beneficiary to further payment.

## **ORDINARY DISABILITY: ALLOWANCES**

***→ How is an ordinary disability allowance for a non-veteran calculated?***

**Non-Veterans who were members prior to April 2, 2012**

An ordinary disability retirement allowance is calculated as though the non-veteran is being retired for superannuation at age 55 if under age 55, or at the actual age if over 55, with the amount of creditable service the member has actually achieved. Non-veteran members of Group 2 and 4 who become members on or after April 2, 2012 will still have this formula apply to them.

**Non-Veterans who became members of Group 1 on or after April 2, 2012**

An ordinary disability retirement allowance is calculated as though the non-veteran Group 1 member is being retired for superannuation at age 60 if under age 60, or at the actual age if over 60, with the amount of creditable service the member has actually achieved.

***→ How is a veteran's ordinary disability allowance calculated?***

A veteran retired for ordinary disability will receive an allowance consisting of an annuity based on age and accumulated deductions, plus related interest, and a pension equal to 50% of the annual rate of regular compensation for the last year immediately preceding retirement for which he or she received regular compensation.

***→ Is there a special provision that applies to veterans who are 55 or older?***

The allowance of a veteran retired for ordinary disability after becoming age 55 will not be less than the allowance he or she would receive if retired for superannuation.

## **WORKERS' COMPENSATION OFFSET/ORDINARY DISABILITY**

***→ Does my receipt of Workers' Compensation payments affect my ordinary disability retirement allowance?***

If the payments you receive under Workers' Compensation are based on the same injury for which you retired, your Workers' Compensation benefit will be offset against your retirement allowance, and will reduce the pension portion of your allowance, leaving the annuity portion unaffected. Workers' Compensation payments that are based on a different injury will not affect your retirement allowance.

## **THIRD PARTY RECOVERY/ORDINARY DISABILITY**

***→ Must recovery be sought from "third parties" that cause the ordinary disability of public employees?***

Members or their beneficiaries who are entitled to ordinary disability must exercise their right to recover lost wages from such third parties. Amounts recovered on account of lost wages are offset against the pension benefit and, therefore, reduce the pension portion of the retirement allowance.

→ ***What steps must a retirement board take if a member or beneficiary fails to fully prosecute such rights?***

Retirement boards may prosecute such rights on a member's behalf. If a member or beneficiary fails to cooperate, the board may, during the period of such failure, suspend the right of the member or beneficiary to further payment.

## 10 Suspension of Disability Benefits

→ ***Are there any circumstances under which accidental or ordinary disability benefits may be suspended?***

### **Incarceration**

Yes, payments to most disability retirees who are incarcerated for a felony committed on or after July 1, 1996 will cease for the period of such member's incarceration.

### **Earned Income Reporting Requirements**

Disabled retirees who fail to comply with reporting requirements about earned income may also be subject to forfeiture of benefits. Please see the section of this guide entitled, "Annual Statement of Earned Income."

## 11 Options for Retirees

"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?***

Your health and age at retirement, income from other sources, financial obligations, and need to provide for others who 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?***

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?***

You must choose an option before the date your retirement becomes effective. Retirement board staff members 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?***

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



## 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 payments will cease upon your death, and no benefits will be provided to your survivors.

### OPTION B

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

Option B provides you with a lifetime allowance, which is approximately 1% to 5% 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, in one sum, the unexpended balance of your accumulated total deductions, if any, from the annuity reserve account.

#### ***• How soon would my contributions be depleted?***

Although your retirement allowance is not reduced because of the depletion of your accumulated deductions, it is generally the case that your accumulated 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 after retirement?***

Under Option B, you may designate any person(s), 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 will receive during your lifetime will be approximately 7% to 15% less than those you would receive under Option A. Upon your death, your designated beneficiary will be paid an allowance for the remainder of his or her lifetime. That allowance will be equal to two-thirds of the allowance that was being paid to you at the time of your death.

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

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?***

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.

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?***

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

Payments would be made to the legal guardian of each child, and would cease upon the child's 18th birthday.

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

Your spouse will continue to be your Option C beneficiary even if you subsequently divorce after retirement.

## **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.

## **SPOUSAL ACKNOWLEDGMENT**

→ ***Must my spouse acknowledge my option election?***

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 15 days by registered mail.

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

# **12** Annual Statement of Earned Income

→ ***What financial information must I file with PERAC after my disability allowance becomes effective?***

You are required to file an *Annual Statement of Earned Income* with PERAC on or before April 15th of each year, certifying the full amount, if any, of your earnings from earned income during the preceding year.

→ ***Are there forms that I must submit along with my Annual Statement of Earned Income?***

If you filed a federal income tax return for the preceding year, even if it was filed jointly and the only income is attributable to your spouse, you must attach a copy of the first two pages of your Federal Form 1040, 1040A, or 1040EZ.

If you requested an IRS extension on filing your tax returns, you must attach a copy of the extension request form.

If your Federal tax return is filed electronically, you must print out a copy of your completed tax return in order to attach the required copies to the *Annual Statement of Earned Income*. If you file by telephone, you must submit a copy of the telephone (TeleFile) filing worksheet with the confirmation number on it.

If you derived income from employment, you must attach copies of any and all W-2 or 1099 forms related to that employment. Forms 1099 that are associated with interest or dividend and Form 1099R (issued by retirement boards to their retirees) should not be submitted.

If you engaged in any self-employment during the preceding calendar year, you must attach all Schedule Cs and/or K-1 forms.

If you derived income during the preceding calendar year from a business in which you, your spouse or dependent child had a proprietary (ownership) interest, you must attach a copy of the first two pages of the Corporate Return Form 1120 or 1120S, Partnership Form 1065, Sole-Proprietorship Schedule Cs, and any and all K-1 forms.

You may be asked to provide additional information.

→ ***What are the consequences of failing to file an Annual Statement of Earned Income and the other documents required by PERAC?***

If a disability retiree fails to submit an *Annual Statement of Earned Income* 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 be terminated for the period of non-compliance. Prior to any termination of benefits, a disability retiree must be given notice and an opportunity to be heard by the retirement board.

→ ***Are there any exceptions to filing an Annual Statement of Earned Income and the other documents as required by PERAC?***

Retirees who have been retired for 20 years or more and have not reported earnings for the 10 prior years may be determined by PERAC to be eligible for a waiver, and exempted from the filing of an Annual Statement of Earned Income.

→ ***What is the definition of earned income?***

PERAC defines the term "earned income" as implying some labor, management, or supervision in production thereof, not income derived from ownership of property. This definition has been affirmed by the Supreme Judicial Court.

For the purposes of G.L. c. 32, if an individual operates a business for profit, individually or through an agent, that individual does not have the option of classifying such income as dividends as opposed to wages. Profits derived from the operation of a business through some labor, management, or supervision of production of such profits are earned income, regardless of how a retiree categorizes such income for income tax or other purposes.

→ ***If I did not earn any income during the preceding year, what forms do I have to complete and submit?***

You are required to complete the *Annual Statement of Earned Income* and return it to PERAC. This is true even if you don't file tax returns.

→ ***Should I use gross or net amounts when reporting earnings?***

When reporting wages earned as an employee, the gross amount from the W-2 form should be referenced. When reporting earnings from self-employment, use the net amount and include all Schedule Cs.

→ ***Does PERAC validate the earnings reported by disability retirees?***

The reported earnings are validated in a number of ways. Since retirees sign their *Annual Statements of Earned Income* under the pains and penalties of perjury, it is very important to report fully and accurately.

## 13 Reduction or Suspension of Benefits

→ ***Will my disability allowance be affected if my post-retirement earnings exceed a certain level?***

Yes, Section 91A of Chapter 32 of the Massachusetts General Laws provides that if the amount of your annual retirement allowance, when added to your post retirement earnings, is in excess of the regular compensation you would have received if you had continued in service in the grade you held on your retirement plus \$5,000, your retirement allowance may be reduced or suspended. The reduction or suspension of benefits will correspond directly with the amount that is in excess.

This adjustment, based on your actual earnings from the preceding year, is made annually. This information may also be used to make a permanent modification of your pension.

Certain payments including bonuses, overtime, severance pay, any and all unused vacation or sick leave, early retirement incentives, or any other payments made as a result of giving notice of retirement are not considered part of regular compensation and will not be utilized in this analysis.

### **Public Sector Work**

Another section of the retirement law further limits the amount that any retiree may be paid for public sector work in Massachusetts. It is the retiree's responsibility to advise the person responsible for paying compensation that he or she is a public retiree and that, as a result, the hours he or she may work and his or her post-retirement earnings in the public sector are limited.

→ ***Can a retirement board simply reduce or terminate my benefits without any notice or without giving me a chance to be heard?***

Prior to any termination or reduction of benefits pursuant to Section 91A, you must be given written notice and an opportunity to be heard by your retirement board. If your board does terminate or reduce your benefits, you have the right to appeal these actions to the Contributory Retirement Appeal Board (CRAB).

→ ***How can I determine how much regular compensation is currently being paid for the position from which I retired?***

You may contact the personnel office with which you dealt as an active member.

# 14 Evaluation of Disability Retirees

## FINDINGS

- *Is a disability retiree required to be evaluated by PERAC after his or her disability retirement becomes effective?*

After PERAC consults with a member's retirement board, any member retired for ordinary or accidental disability will be required by PERAC to participate in an evaluation to determine whether:

- the member is able to perform the essential duties of the position from which he or she retired, or a similar job within the same department for which he or she is qualified,
- or
- whether the member's return to his or her former or similar job would likely be expedited by participation in a medical or vocational rehabilitation program.

## EVALUATION SCHEDULE

- *How frequently will such evaluations be scheduled?*

PERAC may require an evaluation once per year during the first two years after retirement, and once every three years thereafter, or at any time upon the written request of a disability retiree. No member will be evaluated more frequently than once in any twelve-month period.

## RECORDS REVIEW

- *How is the evaluation process begun?*

PERAC begins this process by reviewing a retiree's records. PERAC's Disability Unit Case Manager may also contact the retiree and his or her retirement board. Once all appropriate information is obtained, a determination will be made by PERAC as to the need for a comprehensive medical evaluation to be conducted by a physician.

- *Which records will PERAC review?*

The medical records pertaining to those examinations, tests, and studies performed since your disability retirement became effective are of crucial importance. With access to all up-to-date medical information, PERAC is better able to make an assessment without requiring the duplication of medical tests and studies to produce relevant data. If you advise PERAC that no additional medical records are available, PERAC will schedule you for a comprehensive medical evaluation with a physician.

- *What are the possible outcomes of a records review by PERAC?*

PERAC may find that the catastrophic nature of your illness or injury is such that you do not need to be scheduled for any further review of records or any comprehensive medical evaluations in the future.

or

PERAC may find that you are currently unable to perform the essential duties of your former position or

a similar job. You will not be scheduled for a comprehensive medical evaluation. You will be scheduled for another records review in the future.

or

PERAC may find that a comprehensive medical evaluation must be scheduled in order to complete an assessment of your current ability to return to work, with or without rehabilitation. You will be given 14 days notice of the time(s) and place(s) of the evaluation. Your retirement board will also be notified.

## COMPREHENSIVE MEDICAL EVALUATION

### ***• What can be included in a comprehensive medical evaluation?***

A comprehensive evaluation may include mental or physical medical examinations, vocational testing, meetings and consultations with medical professionals, including your treating physician and vocational rehabilitation counselors. The goal is to provide objective data pertaining to your ability to safely perform the essential duties of your former or similar job, and whether or not your return to employment is likely to be facilitated by participation in a rehabilitation program.

The physician who coordinates this evaluation process will have copies of all of the available medical information and a copy of the current job description associated with the position you held at the time of retirement. If you are a retired police officer or firefighter, a copy of the medical standards established by the Commonwealth's Human Resources Division (HRD) for those positions will also be given to the physician.

The physician will submit his findings in a written report to PERAC. If the physician has concluded that you may benefit from rehabilitation, the doctor will include a rehabilitation plan with the report.

### ***• What happens if I refuse to participate?***

If you refuse to participate in the evaluation without good cause, your retirement board must terminate your allowance. You must first be given written notice and an opportunity to be heard by the board.

### ***• May I appeal a determination made by a comprehensive medical evaluation physician about my ability to perform the essential duties of the position from which I retired?***

Yes. You or any other party to the comprehensive medical evaluation process may appeal any decision to the Superior Court in the area in which you reside, or in Suffolk Superior Court. Upon request, a member's retirement board must assist the member in the filing of an appeal.

## RESTORATION TO SERVICE EXAMINATIONS

### ***• What happens if the physician who performs the comprehensive medical evaluation determines that I am able to perform the essential duties of the position from which I retired?***

PERAC will schedule you for restoration to service (RTS) examinations with three different physicians. These examinations are not conducted on a joint basis. Each physician will conduct a separate examination.

At least one of the physicians will be a specialist in the medical field related to the condition for which you retired. The other physician(s) will specialize in fields whose relevancy is determined by PERAC.

Your physician, legal counsel, and a person of your choosing may attend your RTS examinations. Your former employer/department head, and a physician and legal counsel designated by your former employer, may also be present.

***→ What happens after the RTS examinations have been conducted?***

The physicians complete the RTS certificates and narrative reports and send them to PERAC within 60 days of conducting their examinations. You and your retirement board will receive copies of the certificates and narrative reports from PERAC. If the unanimous outcome of the RTS examination is that you should be restored to service, PERAC will notify your retirement board. Your retirement board must notify your former employer and the state's HRD that you must be restored to service.

***→ May I appeal a determination made by a restoration to service examination physician about restoring me to active service?***

You or any other party to the RTS examination process may appeal any decision to the Superior Court. Upon request, a member's retirement board must assist the member in the filing of an appeal.

## REHABILITATION PROGRAMS

***→ What is the next step if the physician determines that my return to service would be facilitated by my participation in a rehabilitation program?***

If PERAC determines that you would benefit from a rehabilitation program, and that such a program is cost-effective, your retirement board must provide the rehabilitation program for you.

***→ Who will pay for the rehabilitation program?***

Your retirement board must pay for the cost of the program, less any benefits payable under your insurance policies, and less any scholarships or grants otherwise available.

***→ What services will be included in the rehabilitation program?***

Any rehabilitation program will include only those services that are aimed toward returning you to your former position, or a similar position in the same department.

All rehabilitation programs will include a determination of your functional capacity, age, education, and experience.

***→ Are there any consequences associated with failure to complete a rehabilitation program?***

Your retirement allowance will be suspended if you fail to complete the program without good cause.

## EXAMINATION FOLLOWING REHABILITATION

***→ Must I be evaluated after I complete a rehabilitation program?***

If your retirement board believes that such an examination is warranted, your retirement board will ask PERAC to convene a medical panel to examine you to determine if you can perform the essential duties of the position from which you retired.

If your retirement board believes that such a medical panel examination is unwarranted, the board must file a written statement with PERAC stating the reasons why an examination is not justified.

If PERAC rejects this statement, PERAC will schedule either a single physician or a three member medical panel to determine the scope of your physical capabilities, and whether you can perform the essential duties of the position from which you retired, or a similar job within the same department. PERAC will pay for this medical examination.

## VOLUNTARY REHABILITATION PROGRAMS

**→ If a disability retiree wants to volunteer for rehabilitation, how will his or her request be processed?**

A member may initiate the rehabilitation process under Section 21 of Chapter 32. PERAC may require the member to be examined by a physician qualified to render rehabilitation services, or a vocational counselor, or both, for a recommendation as to the need and nature of rehabilitation.

# 15 RESTORATION TO ACTIVE SERVICE

**→ What will happen if, within two years of the date I retired for disability, a regional medical panel determines that I am able to perform the essential duties of the position from which I retired, or a similar job within the same department?**

If there is a vacancy in the position that you held at the time of your retirement, you are required to be returned to that position, and your disability retirement will be revoked.

If there is no vacancy in your former position, but you are found able to perform the essential duties of a similar job within the same department, as determined by HRD, and such a position is vacant, you will be returned to that position, and your disability retirement will be revoked.

If no similar position is vacant, a vacancy must be created for you by reducing the rank and position of the last person promoted to such a position. The person whose rank or position has been reduced will be placed at the top of a list to fill vacancies for that rank or position during the subsequent two-year period.

**→ What happens if more than two years have passed since I retired and a regional medical panel determines that I am able to perform the essential duties of the position from which I retired, or a similar job within the same department?**

If there is a vacancy in the position that you held, or a vacancy in a similar position within the same department, as determined by HRD, you are required to be returned to the position, and your disability retirement will be revoked.

If there is no vacancy, you will be granted a preference for the next available position or similar position for which you are qualified. You will continue to receive your retirement allowance until you are reinstated to your former position, or a similar position becomes available, or unless your earned income (See the section of this guide entitled, "Reduction or Suspension of Benefits") necessitates a reduction/revocation of your pension.

Any disability retiree who has been separated from his or her position for more than five years may be required to complete a retraining program, created by the employer and approved by the state HRD, after being returned to service.

**→ How will my restoration to active service affect my record of creditable service?**

Any creditable service in effect at the time of your retirement for disability will be totally restored. Upon your subsequent retirement, you will also receive creditable service for the period of your disability. No additional contributions will be required as a precondition for receiving such creditable service.



# 16 Modification of Allowance

→ *Will my allowance be affected if PERAC finds I am engaged in, or able to engage in, a gainful occupation while I am in receipt of a disability retirement allowance?*

Your retirement allowance may be modified if PERAC finds that you are engaged in or able to engage in a gainful occupation.

→ *What will be considered in making determinations about potential earnings?*

PERAC will consider all pertinent facts and circumstances, including the retired member's functional capacity, age, education, and experience.

→ *What formula is used to calculate a reduction in a disability retirement allowance based on actual or potential earnings?*

If your annual rate of actual or potential earnings is less than the regular compensation which would have been payable (including any increases in salary) during the preceding year (had you continued in service in the grade you held when you retired), but more than the difference between your regular compensation and your retirement allowance, the pension portion of your allowance will be reduced.

The amount of any reduced or modified pension will be the lesser of:

A) The amount by which the regular compensation exceeds the sum of the annuity portion of the retirement allowance and current actual or potential earnings;

or

B) The amount of the pension including any cost-of-living adjustments.

## Example

The following example illustrates the calculation:

Assume that:

- The regular compensation currently paid for the position from which you retired is \$25,000, and
- Your actual or potential earnings are \$15,000, and
- Your retirement allowance is \$19,000:
  - Annuity of \$4,500
  - Pension of \$14,500

Your pension will be reduced because your actual or potential earnings (\$15,000) are less than the regular compensation (\$25,000) and more than the difference between the regular compensation and your retirement allowance (\$25,000 - \$19,000 = \$6,000). The amount of your reduced pension will be the lesser of:

A) Regular compensation less the sum of your annuity and your actual or potential earnings:

Regular Compensation \$25,000  
Annuity-\$4,500  
Actual or Potential Earnings-\$15,000  
\$5,500

or

B) Your Current Pension:\$14,500

After modification, the amount of your retirement allowance will be \$10,000: your annuity remains \$4,500, and your newly reduced pension is \$5,500. If the result of the calculation under (A) is zero or negative, you will receive no pension, and your retirement allowance will be limited to payment of your annuity.

- ***What if my disability pension has been reduced or suspended and my actual or potential earnings later change?***

Your pension will be further modified by increasing, reducing, or suspending it as the facts at that time may warrant.

# 17

## Accidental Death Benefit

### DEATH RELATED TO ACCIDENTAL DISABILITY

- ***Is my beneficiary eligible to receive an accidental death benefit if my death, after retirement, is directly related to my accidental disability?***

This death benefit is commonly referred to as a "Section 9" benefit, because that is the section of the statute which provides for this benefit. Section 9 provides for an allowance to a surviving spouse or other eligible beneficiary in the event of the death of an accidental disability retiree from the same cause for which he or she retired.

- ***Is there any circumstance in which my beneficiary would not be entitled to a Section 9 accidental death benefit if my death, after retirement, is directly related to my accidental disability?***

If you are a disability retiree who retired and selected Option C on or after July 1, 2004, your beneficiary will receive either the Option C benefit or the Section 9 accidental death benefit, whichever is greater.

- ***What if I retired and chose Option C prior to July 1, 2004?***

In that event, your eligible beneficiary would be able to collect both benefits. This will apply to a small number of retirees: those who retired for accidental disability between November 7, 1996 and June 30, 2004, and who selected Option C.

- ***What if I retire and choose Option C after July 1, 2004 and designate my child as my Option C beneficiary? Would my spouse be able to collect Section 9 accidental death benefits?***

Theoretically, yes. Providing your death is found to be the direct and proximate result of the condition for which you retired, and providing your Option C beneficiary is someone other than your spouse, your spouse would be able to collect Section 9 accidental death benefits, while your child would be eligible to receive the Option C allowance. In the rare event, such as the one described by you, when the Option C beneficiary and the Section 9 accidental death beneficiary are different individuals, two benefits will be available. The law, effective July 1, 2004, only prohibits one individual from collecting both benefits.

Under Section 9, a surviving spouse must have been living with the disability retiree at the time of death, or living apart for justifiable cause.

- ***How is the amount of the death benefit determined?***

The accidental death consists of the continued payment of the pension portion of the allowance you were receiving at the time of your death, taking into account such factors as allowances for eligible children, cost-of-living raises, and any retroactive collective bargaining raises which you may have received after retirement.

If you selected Option B when you retired, any remaining accumulated deductions in your account will be paid to your designated beneficiary(ies). However, if you retired under Option A or Option C, your beneficiary will not be entitled to the amount of any accumulated total deductions remaining in your annuity account.

**→ Is the accidental death benefit affected by amounts received from Workers' Compensation?**

Amounts received by your survivor under Workers' Compensation law are offset and, therefore, reduce the pension portion of an accidental death benefit. They do not affect the payment of any remaining accumulated deductions.

**→ Will pension payments be made to other members of my family if I leave no eligible spouse or eligible children?**

If you leave no eligible spouse, pension payments will be made to your eligible children and, if there are no eligible children, pension payments will be made to your surviving, totally dependent father or mother. If your parents are deceased, or not totally, financially dependent upon you, pension payments will be made to any totally, financially dependent unmarried or widowed sibling with whom you live at the time of your death. Such pension payments will continue as long as your beneficiary or beneficiaries survive, do not marry or remarry, and remain unable to support themselves.

**→ Is there an additional pension benefit to which surviving children are entitled?**

In systems which have not elected to accept the provisions of chapter 55 of the acts of 2006 as amended by section 3 of chapter 64 of the acts of 2006, a yearly additional pension in the amount of \$312.00 will be paid for each surviving unmarried child who is under the age of 18 or who is over said age, but physically or mentally incapacitated from earning on the date of the member's death, or if over age 18 is under age 22 and a full-time student at an accredited institution.

After July 5, 2006, for members of the State Retirement System, the Teachers' Retirement System and any other system electing to accept the provisions of chapter 55 of the acts of 2006 as amended by section 3 of chapter 64 of the acts of 2006, the yearly amount of the additional pension payable for each eligible surviving child will be the same as the amount payable to surviving children of accidental disability retirees. As of July 1, 2011 the additional annual pension for eligible children was \$751.80.

**→ How long will the additional pension be payable on account of eligible surviving children?**

Payments will continue as long as a child remains a full-time student at an accredited educational institution and is under 22 years of age. No payment is made for a child who is already over the age of 18 at the date of the member's death unless the child is physically or mentally incapacitated from earning at that time, or under age 22 and a student at an accredited educational institution. In the event that a child is incapacitated, payments would continue for the duration of the child's incapacity.

**→ After my death occurs, who would be eligible to receive the balance of my accumulated deductions?**

Your beneficiaries will not be entitled to a return of your accumulated deductions unless you elected Option B on retirement. If you did, the balance of your accumulated deductions, and related interest, remaining on your death will be paid to your Option B beneficiaries.

The beneficiaries who receive your accumulated deductions are not necessarily the same beneficiaries who are eligible to receive the pension portion of your accidental death benefit.

## DEATH UNRELATED TO ACCIDENTAL DISABILITY

**→ What benefits are available to my family if my death, after retirement, is not found to be a direct result of the injury or hazard that caused my accidental disability retirement?**

If you retired before November 7, 1996, your spouse is entitled to receive an allowance of \$6,000 or \$9,000 per year, depending upon whether a local action has been accepted. However, if you retired on or after November 7, 1996, you are permitted to select Option C upon retirement to provide an allowance for your spouse. As a result, the \$6,000 or \$9,000 allowance is not available.

**→ Are surviving spouses of other deceased retirees also eligible to receive this benefit?**

The surviving spouses of ordinary disability retirees who retired before December 30, 1971 and who die after January 1, 1973 are entitled to receive the allowance of \$6,000 or \$9,000 per year. As noted above, the amount of allowance depends upon whether a local option has been accepted. If a member retires for ordinary disability on or after December 30, 1971, the member is permitted to select Option C to provide an allowance for his or her spouse. As a result, the \$6,000 or \$9,000 allowance is not available.

**→ Who is eligible to receive the balance of my accumulated deductions after my death?**

Your beneficiaries will not be entitled to a return of your accumulated deductions unless you elected Option B on retirement. If you did, the balance of your accumulated deductions, and related interest, remaining on your death will be paid to your Option B beneficiary or beneficiaries.

## **PENDING DETERMINATION OF ACCIDENTAL DEATH BENEFITS**

**→ If I die while I am still a member-in-service of causes that may be job-related, are there benefits which my family may be eligible to receive while they await a decision about an accidental death benefit?**

Your surviving spouse (or other eligible beneficiary whom you may designate at any time prior to your death) may elect to receive an Option D benefit in an amount equal to the yearly amount of the Option C allowance to which you would have been entitled had you retired on the date of your death. This benefit is payable pending determination of your beneficiary's eligibility for receipt of accidental death benefits. Your beneficiary must elect to receive such benefits within one year of the date of notification of eligibility to elect.

**→ Who is eligible to be my Option D beneficiary?**

The eligible beneficiaries are limited to your spouse, your former spouse who has not remarried at the time the Option D benefit becomes payable, your child, your parent, or your sibling.

Even if you select someone other than your spouse as your Option D beneficiary, if you die leaving a spouse to whom you were married for at least a year and with whom you were living at the time of your death (or living apart for justifiable cause), that spouse can elect to receive the Option D benefit, to the exclusion of the Option D beneficiary you named, so long as you have at least two years of creditable service.

**→ Are there any additional benefits that my surviving eligible children may be eligible to receive during this interim period?**

An additional allowance of \$120.00 a month (or \$1,440.00 annually) for the benefit of your first eligible child, and \$90.00 per month (or \$1,080.00 annually) for each additional eligible child, will be payable.

**→ If my spouse elects to receive Option D payments during this interim period, is the amount of his or her benefit guaranteed to meet a certain level?**

The benefit payable to your spouse will not be less than \$250.00 or \$500.00 per month, depending upon whether a local option has been accepted, if, at the time of your death, you were married for at least a year, were living with your spouse, and you had completed at least two years of service.

**→ Would an accidental death benefit be affected by the payment of such an interim allowance?**

In the event your accidental death benefit is approved, the accidental death benefit will be paid retroactively to the date of your death, and will be reduced by the total amount of such interim payments and any additional allowance paid for the benefit of your children, in most circumstances.

# 18 Appeals

## **→ Who has the right to appeal to CRAB and when must an appeal be filed?**

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

### **Time Frame for Appeals**

Appeals to CRAB must be filed within 15 days of notification of a retirement board or PERAC action.

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?**

The board consists of three members:

- an Assistant Attorney General, who acts as the chairman
- a designee of PERAC
- 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 appeal process work?**

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 haven't 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. Any member may petition the District Court for review in cases involving 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.

### **Superior Court**

Cases involving comprehensive medical evaluations and return to service examinations should be appealed to the Superior Court.

***→ If I am awaiting a decision from CRAB about disability, may I take a retirement allowance for which I am qualified?***

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.

## KEY ADDRESSES & PHONE NUMBERS

Public Employee Retirement Administration Commission  
5 Middlesex Avenue, Suite 304  
Somerville, MA 02145  
(617) 666-4446

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) \*  
One Congress Street, 11th Floor  
Boston, MA 02114  
Phone 617-626-7200

Massachusetts Department of Revenue  
100 Cambridge Street  
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  
Phone 800-829-1040  
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.

# Appendix B

## Disability Retirement System Commission Summary of Hearing Discussions and Consideration from the 10/15 & 10/18 Public Hearings

*\*Note that the underlined text indicates concrete consideration requests from those providing testimony*

- **William Rehrey and Shawn Duhamel from Mass Retirees:**
  - o Discusses the scope of 7,000 disabled retirees. Comments about the improvement of the 10 year-out waiver for earnings statements filing, given the impracticality of elderly retirees earning income after not doing so for 10 years.
  - o Mass Retirees argues that the same rationale should apply to disability determination evaluations and reexaminations (Section 8 of Ch 32).
  - o Currently, members on disability have an exam every 3 years until the individual is deceased. Similar to the earnings waiver, Mass Retirees urges that we consider an age and/or number of years within the disability system to allow a waiver for exams, given the argument that these reexaminations have no actual value at that point and thus unnecessarily burden the elder disabled individuals.
  - o Request for commission to consider H2426, which would provide that a member retired under section 6 or 7 of chapter 32 would no longer be required to submit to a medical examination if they have been disabled for more than 10 years
  - o Section 91A is discussed, in regards to post-retirement earnings, where disabled retirees can supplement pension up to an amount the formula indicates (difference between pension and current wage, plus \$5,000). They note that "\$5k" figure has changed over time (in 1977 at \$3k, in 1982 to \$5k).
  - o Request for commission to consider H2427, to raise the \$5,000 figure to \$15,000, bringing the figure to the same recent retiree allowance change in Pension Reform.
- **Shawn Duhamel, representing the Plymouth Retirement Board**
  - o Request for commission to consider H683 (filed by PERAC), which allows accidental retirees to convert their disability pension to superannuation. Note that the decision to convert would be optional.
  - o The argument is that this relieves the caps on earnings for those who wish to pursue more in-depth career options. The option would not cost the Commonwealth, as converting to superannuation would not boost the person's pension and it would no longer be federally non-taxable.
  - o Shawn states that the process, from the Plymouth Boards' perspective, for medical review is in good condition and—while open to tweaks for further efficiency—believes there should not be any dramatic change.
  - o Q&A on superannuation conversation: Joe asks if there would be medical/life benefits changes due to the conversion for the individuals and his/her family (ie. accidental death benefits).
- **Senator Keenan**



- The Senator points out concerns for those receiving disability to be locked into earnings, through the formula, and thus any potential career-change options. He states that this is especially concerning for those who go out on disability earlier in life (30s or 40s).
  - Keenan proposes that the commission explore the option of those receiving disability benefits to take more money up front in the beginning of being on disability. For example, an individual could review payment in X amount (dependent on the calculation of their total value established at their point of retirement) every year for 10 years, as opposed to stretching it out, and conclude their receipt of disability funds after 10 years.
  - His argument is that individuals who opt for this approach can invest in trainings, education, and other investments with a greater amount of funding upfront. He believes that a formula for determining the amount can be figured out and states that the funds would come from the general pension account.
  - Q&A about the feasibility of this approach and lingering questions in terms of guessing the full value of the pension, not knowing the person's lifespan or potential for re-entering the workforce. There are also questions about the irrevocable nature to taking the funds upfront, potentially not finding the job they wish, and then continuing without an adequate income once the benefits stop. The Senator agrees that this would not be great for everyone but it would be a good option for those disabling at a younger age, who he argues generally have small benefits.
- ***Ned Merrick of the Mass Fraternal Order of Police***
  - Presenter (name illegible on the presenter sheet) discusses in a very general matter that he is glad this is not a "witch-hunt". He argues that this disability pension is not as great as many believe, given that the 72% doesn't keep up over the years. He cautions the commission to tread lightly in terms of re-entry and the end of one's career, as that can result in a quick pension boost.
  - He explains that he also has concerns about the retirement earnings caps and asks the commission to look into those limitations.
- ***Jay Corburt of the Professional Firefighters of MA***
  - Request for commission to consider including in statute an assumption on infectious diseases. The argument is that firefighters are going into conditions with sincere medical hazards in which past incidents are hard to prove in terms of the connection to the injury.
  - They cite a recent Hep C case where it is alleged that the person contracted Hep C during work, yet could not pinpoint the specific time/date of potential contraction. Given that it didn't fall under presumption laws, he was not determined eligible for disability. One firefighter discusses the fact that they are regularly being sent out to handle medical emergencies now, and to this further call for a presumption consideration. They argue that some states already have presumption protections and they share the following statistics about contractions: 11.6% at risk for Hep A, B, or C; 10.5% for meningitis, and 8.6% for HIV
- ***Officer Leonard Johnson of Worcester (police dispatcher, police officer, and DARE officer)***
  - Relays personal story: In 1997, at a DARE summer camp, he fractured his ankle playing basketball. Since then, he has been in and out of work. He has reinjured his ankle and has undergone various treatments. On 9/18/11, he was asked by his superiors, "What do you want to do?" Although he would prefer light duty, it is not an option for him, and he is seeking a disability retirement.
  - Request for commission to consider light duty made an option over disability retirement. If a person does his or her job and does it well, it helps to create that person's identity.

- **Panel: Ryan Benharris (Fall River attorney who represents claimants in accidental disability retirement cases) and Massachusetts Correction Officers Federated Union representative Charles Dwyer**
  - o Commissioners express concern for the safety of correction officers, after recent injuries described.
  - o Testimony: delays at all stages of the disability retirement application process— delays between the filing of the application and the convening of the medical panel, delays between the convening of the medical panel and the decision of the retirement board, and delays between the decision of the retirement board and the actual disability retirement payment. Delays create an increased burden on the worker's compensation system. For one client whose accidental disability retirement was approved in June 2011, that client has not received an accidental disability retirement payment. There is also discussion on the challenges in getting information on disability applicants' cases from the Department in a timely manner. Asks the commission to look into addressing the degrees of delay.
  - o Attorney Benharris has seen inconsistent processes between panels. One retirement board held a post-medical panel hearing, and the client has heard nothing since then, even when Attorney Benharris calls for information.
  - o DALA hearings can take two years, with appeals taking up to 4 years. He calculates that it could take a decade between leaving work due to disability and actually receiving a disability retirement payment. No interest is paid on late pay-outs.
- **Christine Narcisse, a lawyer representing claimants in disability retirement cases**
  - o Asks the commission to look into ideas for addressing problems of severe delays in cases in front of the Division of Administrative Law Appeals (DALA). She also proposed that we look into extending the tight timeframe in which an applicant can appeal directly to the board and when it goes into DALA. The 14 day appeal period has feasibility concerns especially in terms of those who involuntarily apply, are denied, and aren't able to respond within the 14-day window.
  - o Q&A. Nick Favorito discusses the dynamic of a multi-stage appeal process, first going to the Contributory Retirement Appeals Board (CRAB) and then to DALA, and then onto the superior court, and wonders if there is a way to streamline this a little better
- **Paul Jacques, Professional Firefighters of MA**
  - o They wanted to follow up on the commission's inquiry about how many states have infectious disease presumptions—22 states have some form of disease presumptions, including RI. The commission asked if they can provide a breakdown of which diseases.
- **Robin Craver, Town Administrator for Charlton and MMA rep**
  - o Discusses 111F and group 4, in terms of requesting that the commission explore ways to keep group 4 individuals on disability able to work after injury. (She acknowledges however that light duty options are very limited.) She discusses one case in which the person who was on disability but still able to work in some capacity had filed a MCAD case against her for trying to find other work options. There is discussions about the anomaly nature of this case, but recognizes her desire to look into options and incentives for those who wish to continue workings to do so.
  - o There is also a request for having greater clarity on "wear and tear" disability and stronger criteria for assessment medical providers to follow. She specifically mentions the inadequate documents received from doctors in terms of the documentations the municipality requests for assessment.
  - o There is a new idea proposed which would have a tiered disability retirement system. For a general example, there would be a tier that is the current full disability benefits (72% of

wages), or people could opt for taking another position, make an income with that, and then take a different percentage in their disability benefit income.

- Q&A. John Petrin comments about this as an idea for a scaled system so that we can move away from the “all or nothing” system in terms of benefits and options for work-after-disability. There is also discussion of the idea of converting to superannuation, so that individuals could seek other job options. There is also commentary about the fact that there is no standard definition to “light duty” and thus varies greatly by community.
- Upon discussion that some public service employees have their identity fully engrained in their position, John Petrin comments that the tiered idea could be an voluntary option, not a forced situation.
- Joe brings up that some of the issues around return-to-service (and why there is a legal stance for not shifting to different duties) is based on the statutory language in Section 8 of Chapter 32, which states that a return to service can happen as long as the new job is “the same or similar to the position they left.”
- If there would be a shift in returning to work, then there would also have to be a change in the medical standards, as the Division of HR has standards of return that must be confirmed by a medical panel.
- John Scibak talks about the point Robin brings up in terms of the need (according to the ADA) to have reasonable accommodations for disabled employees, and what they may entail if it “went both ways”. Petrin brings up the prospects of a “partial disability” option with work in between retirement to help build superannuation.
- Rep. Fattman inquires as to how the “72% of income” figure was decided for the accidental benefit calculation. There is also discussion about the inadequacy of the COLA and that impact on the 72% benefit becoming insufficient over time.

- ***Roberta Schafer, Worcester Regional Research Bureau***

- Citing the research report handed out to all the commission members, Roberta comments that the average disability is 70% more than the superannuation in Worcester. There is a 30% accidental disability rate in Worcester among group 4 and Boston is higher, which she argues is unsustainable.
- She asks the commission to consider having more physical standards as a requirement (and not just during time of hire). She argues that physical standards should not be part of collective bargaining and should be put in place by statute and local aid appropriation.
- She argues that the commission look into having employee contributions to retirement be by group, not date of hire, and references this policy recommendation from the 2006 Blue Ribbon Panel report.
- She states that there should be a separate statewide retirement system for positions in hazardous jobs, and that the state should reform cancer presumptions (citing that 27 states do not have such laws.) She argues that there are only 3 types of cancer that are directly linked to a fire fighter's occupation. She cites that famous Globe article in terms of the firefighter who was taking drugs and applied for disability under presumption; but, she was corrected by Joe that PERAC did not determine that person eligible for retirement benefits.
- There is much discussion around the validity of the report statistics and figures within the overall context of the occupations' responsibility requirements and hazards, and of streamlined retirement system of public employees.
- In the end, Chairman Brownsberger said we will review and consider the materials presented to the commission along with all the other discussions and perspectives.

- ***Ray McGrath, National Association of Government Employees***

- Wants to point out that physical fitness standards are on the books in terms of the law, but they aren't being implemented due to the actual costs of municipalities implementing those standards
- Generally comments on the system process as in good condition and not needing large-scale changes
- ***Denis Devine, Mass. Association of Contributory Retirement Systems***
  - Also expresses concerns with DALA in regards to the delays and the nebulous retirement boards should act accordingly in regards to cases and the presenters they set

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# Appendix C

**Materials provided by Disability Management Services**

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October 10, 2012

Representative John W. Scibak  
Senator William Brownsberger  
Co-Chairmen  
Commission on the Commonwealth's Disability Retirement System

RE: Thoughts for improving Disability Pension experience without reducing benefits

Dear Gentlemen,

As your commission begins its charge to study and investigate all aspects of disability provisions of the Massachusetts Contributory Retirement System with an aim at trimming escalating pension costs, I want to share with you my company's experience working with the City of Springfield and the City of Worcester to help improve their disability pension adjudication process. In addition, I would like to share some thoughts on how experience can be further improved going forward, not just in Springfield and Worcester, but all Massachusetts municipalities. My hope is that by sharing with you our experiences with Springfield and Worcester, as well as our knowledge of disability claims management best practices, your commission may gain insight into improving municipality experience without having to reduce benefits for those who truly are entitled.

Disability Management Services, Inc. ("DMS") is a leading administrator of disability claims on behalf of several major insurers, reinsurers, municipalities and employers with self-insured disability plans. Headquartered in Springfield, DMS employs approximately 170 disability professionals and manages over 9,000 active disability claims, representing over \$2.5 billion in claim reserve liability. In 2008, DMS began working with a mid-sized municipality in Connecticut to assist in their pension disability adjudication process. In 2009, DMS began working with the City of Springfield, and the following year was engaged by the City of Worcester to enhance their disability pension adjudication process.

The goal of both Springfield and Worcester was simply to improve the tools and expertise utilized in the adjudication of disability pension applications in order to achieve the highest degree of accuracy and efficiency possible. Both Retirement Boards recognized the value in improving their approach, particularly faced with challenges that included:

- A lack of expertise to navigate through the extensive volumes of medical records and technical terminology involved in each claim.
- A lack of awareness of pertinent additional medical and non-medical information that could help assess benefit eligibility.
- IME reports focused on the existence of medical impairments rather than how the impairments limited the Applicant's functional capabilities.
- An inability to interpret and apply IME report data.
- Inherent conflict in assessing disability and managing questionable claims.

By enlisting the services of a professional organization experienced in the adjudication of disability claims, and by broadening the focus beyond simply validating the existence of medical conditions, Springfield and Worcester have been able to improve the accuracy of benefit eligibility determinations. While hard to quantify, it is anticipated that the improved claim evaluation process has also discouraged individuals from bringing illegitimate claims while at the same time, giving individuals with legitimate claims confidence that their claims would be thoroughly and fairly adjudicated.

Members of the Retirement Boards of these municipalities are not disability experts and need specialized clinical and occupational expertise to effectively evaluate complex claims. DMS has been able improve the accuracy and efficiency of their complex claim evaluation by providing the following services:

**Expert Medical Record Review:** Medical records are often quite extensive with technical terminology that makes their interpretation challenging. DMS' thorough review of an Applicant's disability application, medical records, and other pertinent claim information provides the Retirement Board with a concise summary of findings, explanation of technical terminology, recommendations for follow-up activity, and suggested questions for the Retirement Board's interview with the Applicant. Further, DMS is able to recommend specific questions to include in the IME request to PERAC to improve the value of their medical panel report.

**Enhanced Applicant Interviews:** The Applicant interview is a critical component of the claim adjudication process and a highly effective way of gathering information, understanding all issues impacting the claim, setting expectations, and establishing clear communication. As a result of conducting thousands of interviews each year, DMS is well prepared to enhance this process through either direct participation in the interview or preparing the Board with specific questions and issues to focus on. As a result of a more in depth and effective interview, the Retirement Boards are able to gain a more comprehensive and clear view of the medical, functional, and occupational factors impacting their disability claims.

**More Focused IMEs:** A useful IME focuses not just on the medical impairment but also on the specific restrictions and limitations that it causes. By structuring the IME request to address specific functionality, the medical evaluation is considerably more productive in helping Boards determine if an Applicant can in fact perform the duties of their job.

**IME Reviews and Overall Claim Recommendations:** IME reports can be very technical, detailed and ultimately confusing for those who do not specialize in the medical or disability claim professions. Additionally, when a panel of medical specialists is involved, there can be conflicting opinions that need to be reconciled, or information that needs to be further developed or clarified through follow-up communications. From its experience reviewing hundreds of IME reports each year, DMS has been able to provide the Retirement Boards with meaningful and concise analysis of IME findings. From these IME reviews and other facts/records of the claim, DMS provides an overall recommendation for disability benefit eligibility, or if necessary, additional steps required for an accurate adjudication of the claim.

While these changes have had substantial impact, DMS believes there are additional actions that can be taken to further improve the disability pension adjudication process. These recommended

actions would benefit not only Springfield and Worcester, but all Massachusetts municipalities and include the following:

- **Redesign the IME form used by PERAC to facilitate a more comprehensive and consistent assessment of the impairment.** We have seen a number of IME reports that have lacked the thoroughness expected from examining doctors. Asking a doctor to check “yes” or “no” on the IME form can be limiting when assessing functional impairment. The form also requires the medical specialist to translate the restrictions and limitations of the Applicant to their specific job duties – something they may not be best equipped to perform. IME reports should focus exclusively on the impairment and the resulting restrictions and limitations. The Board should then take this information and, with proper support from disability and vocational specialists, determine if the Applicant’s job responsibilities can be performed.
- **Move from a three panel medical specialist IME review to a single medical specialist IME review.** For the same expense, Boards would be better served using one well credentialed medical specialist spending more time reviewing the applicant’s condition than three less credentialed medical professionals, providing a stream-lined review.
- **Encourage municipalities to regularly update job descriptions and employees’ job titles to reflect current responsibilities.**
- **Necessitate the use of pre-employment physicals for all new hires and document the existence of pre-existing conditions.**

In conclusion, municipalities should be obligated to provide disability pension benefits for workers who are unable to perform their job due to a disabling condition. Public safety professionals should be protected because of the risks they take in serving their community. But the Massachusetts Retirement System simply cannot afford to pay the significant pension obligations that result from those who do not truly qualify for disability benefits. In order to make this distinction, a better process is required. I hope our experience and lessons learned working with Springfield and Worcester for the last several years, as well as thoughts for further improvement going forward, is useful to your committee.

A team from DMS would be more than happy to meet with you to discuss our recommendations in greater detail, provide examples, and brainstorm ways to implement these changes. In the interim, if you would like additional information, please do not hesitate to ask.

Best regards,

Timothy J. O’Connor  
Vice President  
Disability Management Services, Inc.



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# Appendix D

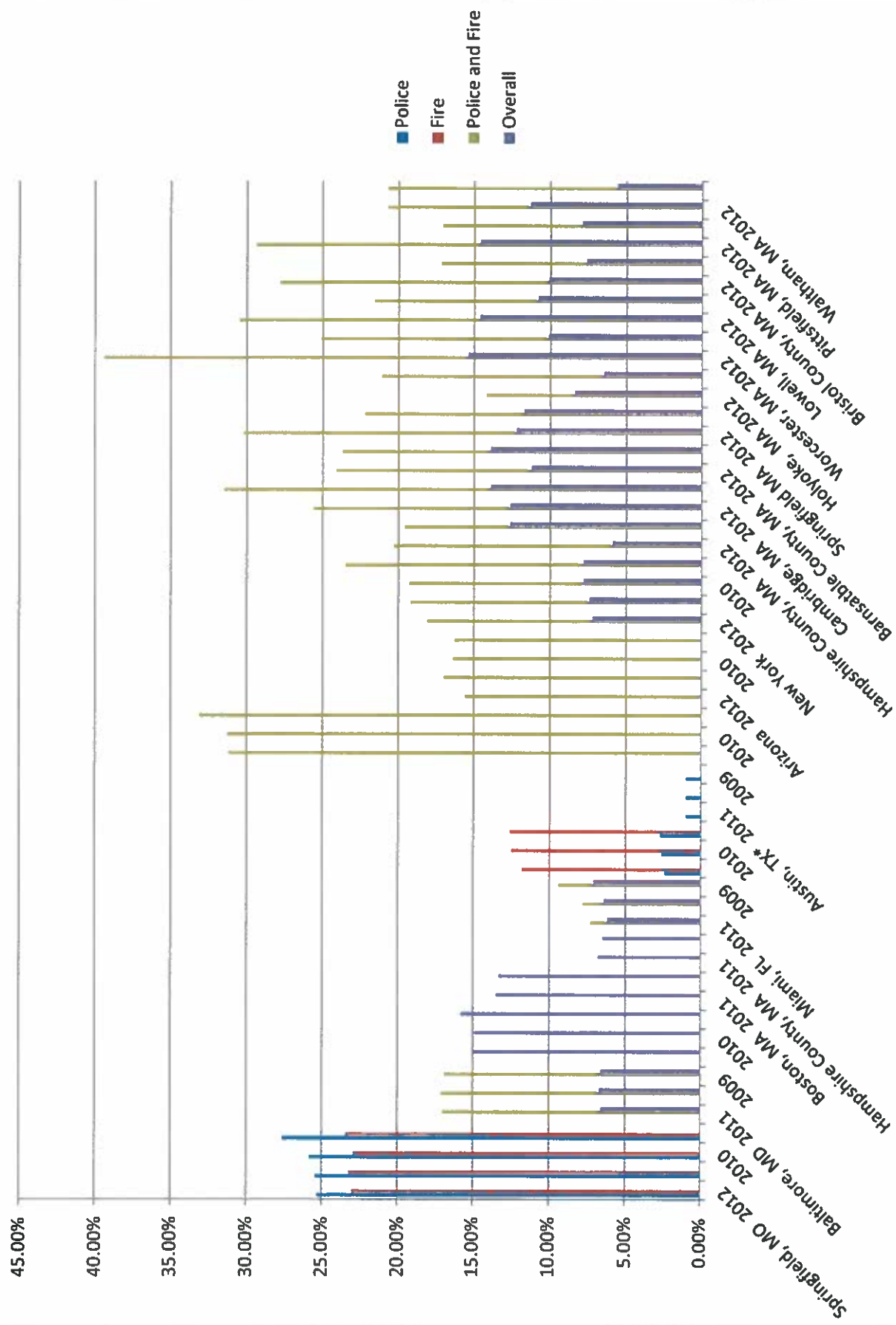
**Data Analysis by Chairman Scibak**

As a part of the process of examining the disability retirement system, the Commission examined data from both retirement systems within the commonwealth, as well as various state and municipal systems throughout the country. The purpose of this examination was to determine if there was consistency within systems in the commonwealth, as well as if these systems were seeing comparable rates of accidental disability to systems throughout the nation. Chairman Scibak's data analysis resulted in the following conclusions:

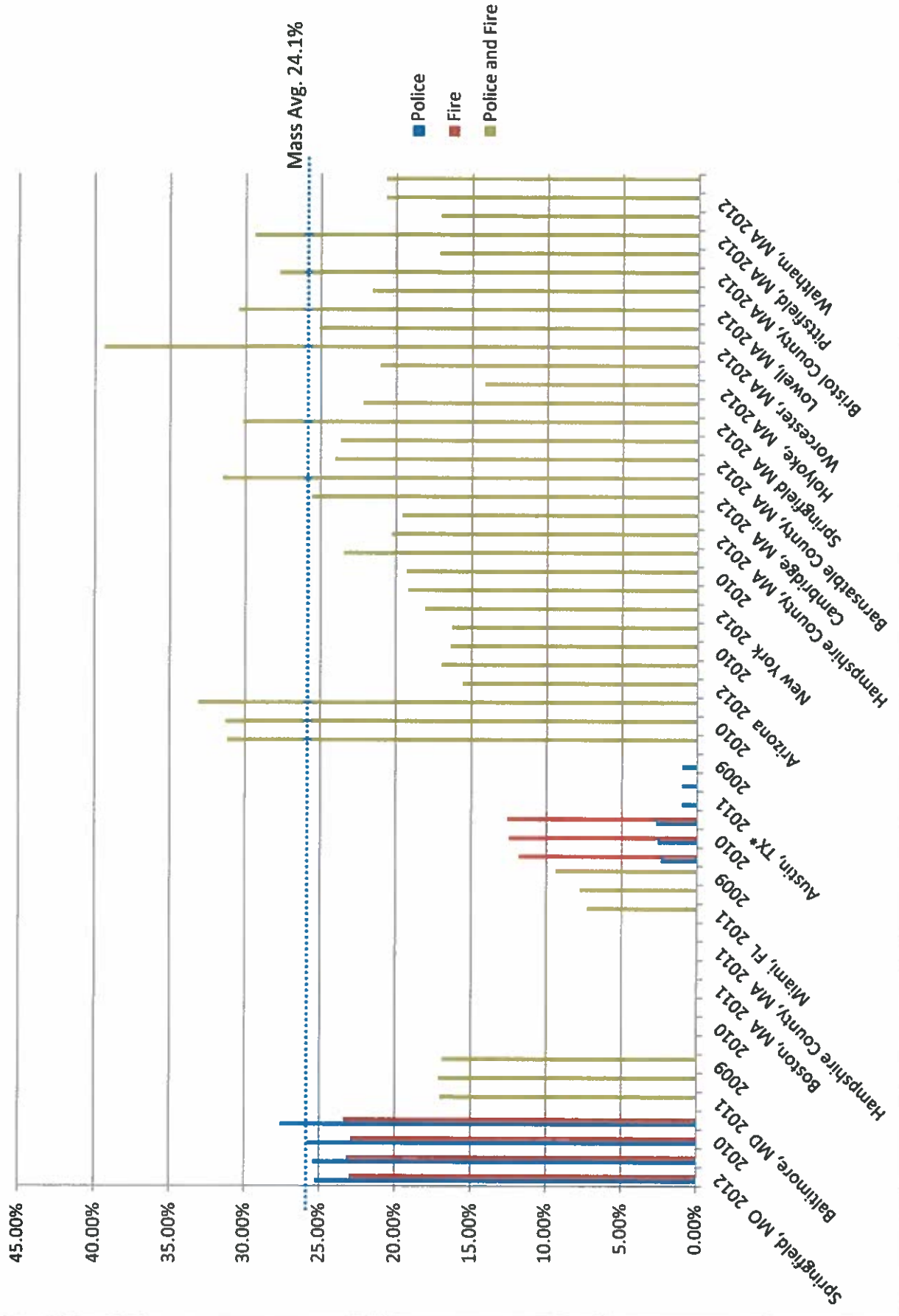
1. Due to the hazardous nature of their jobs, the disability retirement rates for police and firefighters were higher than those for individuals in other occupations.
2. The data indicated consistency amongst disability retirement rates on the State and Local level throughout Massachusetts. This high degree of consistency indicates that the disability retirement system functioned similarly effectively throughout the commonwealth.
3. From an analysis of systems ranging from the State of Arizona to cities as varied as Miami, Florida, Baltimore, Maryland, and Springfield, Missouri, the commission noted some deviation amongst the disability retirement systems, particularly with regards to accidental disability. This deviation can be attributed to the differences in the many systems, including the amount of the benefit awarded to an individual retired on disability, the absence or presence of a years of service requirement, proration of the benefit, presumptions, as well as external environmental factors. Taking into account all of these factors, many members of the commission felt that the variations from system to system were not radical enough to arrive at the conclusion that there were substantial flaws in the disability retirement system employed by the commonwealth.

4. In examining presumptions, all state surveyed had presumption laws on the books. Many states have in place presumption laws for some cancers, heart and respiratory conditions and some infectious diseases. All states with presumption laws have also put into place requirements for pre-employment physicals for positions eligible for presumptions.

## % of Members in System on Accidental Disability Broken Down by Title

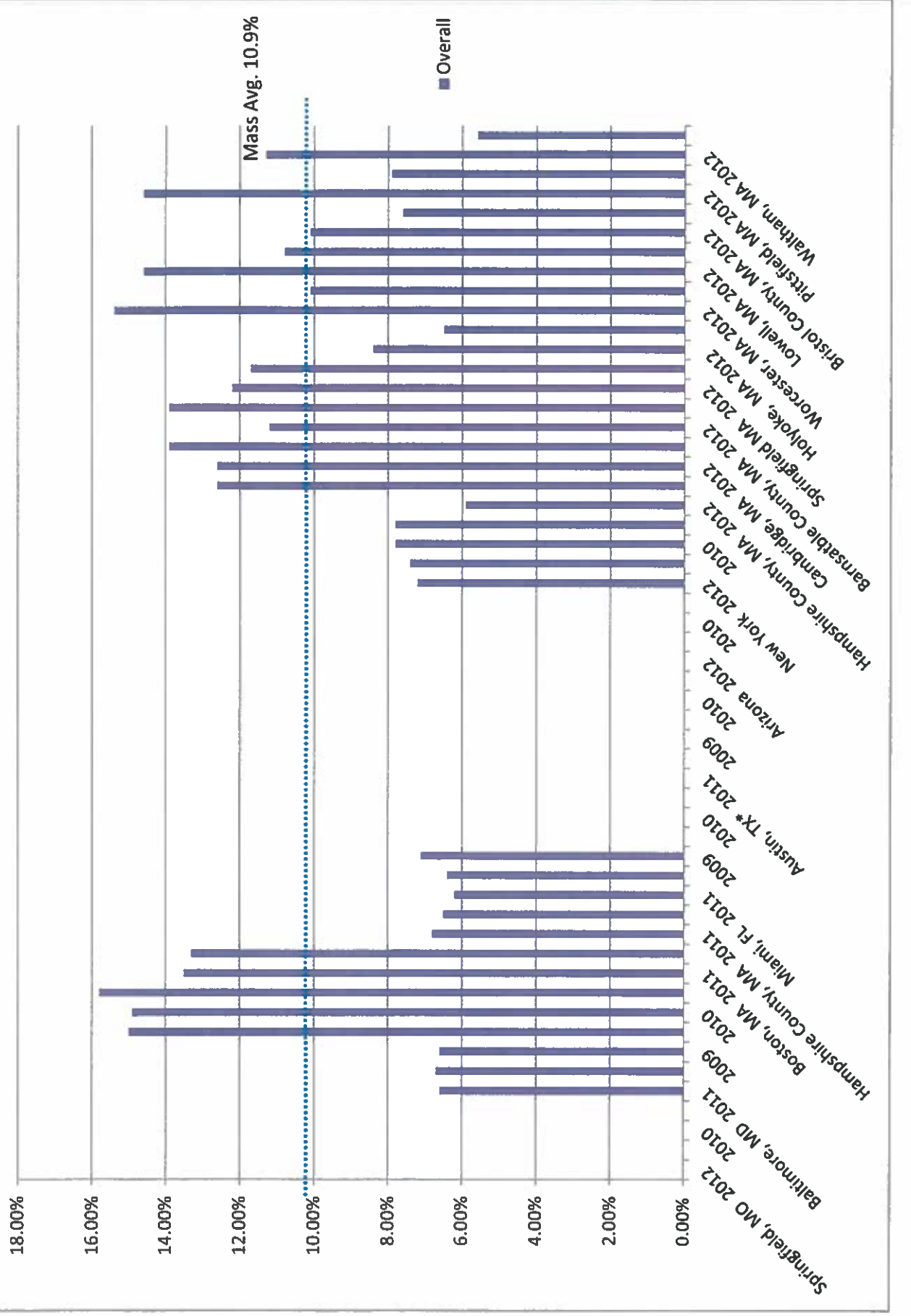


# % of Members in System on Accidental Disability: Police and Fire Only



Horizontal bar chart showing the percentage of the population aged 18 and over who are married in various Massachusetts counties and other locations. The y-axis represents the percentage from 0.00% to 18.00%. The x-axis lists locations including Springfield, MO 2012; Baltimore, MD 2010; Boston, MA 2010; Hampshire County, MA 2011; Miami, FL 2011; Austin, TX\* 2011; Arizona 2009; New York 2010; Hampshire County, MA 2010; Cambridge, MA 2012; Barnstable County, MA 2012; Springfield, MA 2012; Holyoke, MA 2012; Worcester, MA 2012; Lowell, MA 2012; Bristol County, MA 2012; Pittsfield, MA 2012; Waltham, MA 2012; and an Overall average. A dashed line indicates the Massachusetts average of 10.9%.

Location	Percentage
Springfield, MO 2012	~6.5%
Baltimore, MD 2010	~6.5%
Boston, MA 2010	~6.5%
Hampshire County, MA 2011	~6.5%
Miami, FL 2011	~6.5%
Austin, TX* 2011	~6.5%
Arizona 2009	~6.5%
New York 2010	~6.5%
Hampshire County, MA 2010	~6.5%
Cambridge, MA 2012	~6.5%
Barnstable County, MA 2012	~6.5%
Springfield, MA 2012	~6.5%
Holyoke, MA 2012	~6.5%
Worcester, MA 2012	~6.5%
Lowell, MA 2012	~6.5%
Bristol County, MA 2012	~6.5%
Pittsfield, MA 2012	~6.5%
Waltham, MA 2012	~6.5%
Overall	10.9%



		Accidental Disability Pensions as a % of Total Pensions				
		Police	Fire	Police and Fire	Overall	Difference
Springfield, MO	Springfield, MO 2012	25.30%	23.00%			
	2011	25.40%	23.20%			
	2010	25.80%	22.90%			
	2009	27.60%	23.40%			
Baltimore, MD	Baltimore, MD 2011			17.00%	6.60%	10.40%
	2010			17.10%	6.70%	10.40%
	2009			16.90%	6.60%	10.30%
Worcester, MA	Worcester, MA 2011				15.00%	
	2010				14.90%	
	2009				15.80%	
Boston, MA	Boston, MA 2011				13.50%	
	2010				13.30%	
Hampshire County, MA	Hampshire County, MA 2011				6.80%	
	2010				6.50%	
Miami, FL	Miami, FL 2011			7.30%	6.20%	1.10%
	2010			7.80%	6.40%	1.40%
	2009			9.40%	7.10%	2.30%
Chicago, IL	Chicago, IL 2011	2.40%	11.80%			
	2010	2.60%	12.50%			
	2009	2.70%	12.60%			
Austin, TX	Austin, TX* 2011	1%				
	2010	1%				
	2009	1%				
Iowa	Iowa 2011			31.20%		
	2010			31.30%		
	2009			33.10%		
Arizona	Arizona 2012			15.60%		
East Providence, RI	East Providence, RI 2011			17.00%		
	2010			16.40%		
	2009			16.30%		
New York	New York 2012			18.10%	7.20%	10.90%
	2011			19.20%	7.40%	11.80%
	2010			19.30%	7.80%	11.50%
	2009			23.50%	7.80%	15.70%
Hampshire County, MA	Hampshire County, MA 2012			20.30%	5.90%	14.40%
Lynn, MA	Lynn, MA 2012			19.60%	12.60%	7%
Cambridge, MA	Cambridge, MA 2012			25.60%	12.60%	13%
Brockton, MA	Brockton, MA 2012			31.50%	13.90%	17.60%
Barnstable County, MA	Barnstable County, MA 2012			24.10%	11.20%	12.90%
Fall River	Fall River 2012			23.70%	13.90%	9.80%
Springfield MA	Springfield MA 2012			30.20%	12.20%	18%
Beverly, MA	Beverly, MA 2012			22.20%	11.70%	10.50%
Holyoke, MA	Holyoke, MA 2012			14.20%	8.40%	5.80%
Worcester Co., MA	Worcester Co., MA			21.10%	6.50%	14.60%
Worcester, MA	Worcester, MA 2012			39.40%	15.40%	24%
Middlesex Co., MA	Middlesex Co., MA 2012			25.10%	10.10%	15%
Lowell, MA	Lowell, MA 2012			30.50%	14.60%	15.90%
Chicopee, MA	Chicopee, MA 2012			21.60%	10.80%	10.80%
Bristol County, MA	Bristol County, MA 2012			27.80%	10.10%	17.70%
Framingham, MA	Framingham, MA 2012			17.20%	7.60%	9.60%
Pittsfield, MA	Pittsfield, MA 2012			29.40%	14.60%	14.80%
Peabody, MA	Peabody, MA 2012			17.10%	7.90%	9.20%
Waltham, MA	Waltham, MA 2012			20.70%	11.30%	9.40%
State of Mass**	State of Mass 2012			20.70%	5.60%	15.10%
AVERAGE		11.48%	18.49%	21.58%	10.07%	11.70%
	*You have the option to take superannuation, and receive Disability Benefits for a limited amount of time					
	**State Police Acc. Retirement: 14.4%, Group 4: 22.9%					

State By State Comparison of Disability Presumption						
		Massachusetts	New York	Rhode Island	Illinois	Texas
Cancer Presumptions	Melanoma	x	x	x	x	x
	Central nervous	x	x	x	x	x
	Lymphatic	x	x	x	x	x
	Digestive	x	x	x	x	x
	Hematological (excluding Lymphatic)	x	x			
	Urinary	x	x			
	Skeletal	x				
	Oral	x		x	x	x
	Prostate	x	x	x	x	x
	Lung or Respiratory Tract	x		x	x	x
	Breast		x			
	Reproductive		x			
	Hypertension	x				
	Lung Diseases	x		x*	x	x
Infectious Disease	Heart Disease	x			x	
	Stroke				x	x
	Myocardial Infarction					x
	HIV/AIDS		x	x**		
	Tuberculosis		x	x**	x	x
	Hepatitis B/C		x	x**		
Disqualifications	Meningococcal Meningitis			x**		
	Pre-Employment Physical	x	x	x	x	x
	Competent Evidence	x	x	x	x	x
	Proven Willful Negligence			x		x
	Years of Service Requirement				5	10

\*caused by smoke inhalation

\*\*Infectious disease: interruption, cessation or disorder of body functions, systems, or organs transmissible by association with the sick or their secretions or excretions. Includes, but is not limited to, human immunodeficiency virus (HIV), hepatitis B virus and hepatitis C virus .



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# Appendix E

**Data Analysis by Chairman Brownsberger**

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This workbook was prepared by Senator Will Brownsberger on February 9, 2013, based on data for the twenty largest pension systems for which PERAC had available data. PERAC does not collect data on Boston.

For purposes of this analysis, Groups 1-4 represent the retirement groups for public employees as classified by Section 3 of Chapter 32 of the General Laws. So-called "Group 5" represents Group 1 state employees.

The scope of this analysis was limited to a employees who retired between 1992 and 2011 and were still alive or had died recently – retirees are purged from the databases after death.

The data in the first four charts confirm that disability retirements are made up disproportionately of accidental disability retirements; ordinary disability retirements make up a significantly smaller percentage of retirements in each of the groups and systems analyzed. The financial incentives created by the disability retirement system combined with the presumptions available for police and fire employees contribute to this pattern. Accidental disability retirement is much higher in group four than in other groups and presumption cases account for a substantial portion of these retirements, according to data elsewhere in this report. This finding does not indicate that rules are being bent, it only indicates that the retirement patterns are consistent with the rules and incentives.

There were material variations in accidental disability retirement rates across the systems we sampled, but but not having conducted an audit of the systems, the reason for these differences remain unclear. Most systems did fall within the same general ranges of accidental disability retirement rates by group, consistent with the standard incentives and rules applicable to all systems.

Greater variation would be seen in comparing systems within Massachusetts to systems outside Massachusetts, as those systems are designed with different standards and incentives. The data does show variation in disability retirement rates among groups.

Charts 5A and 6A confirm that retirement amounts under accidental disability are consistently higher than under ordinary disability. Read in conjunction with charts 5 and 6, they suggest that retirees tend to stop using accidental disability when they have sufficient accumulated age and service to be able to use superannuation retirements.

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  - Ordinary Disability
  - Accidental Disability
  - Accidental Death
- Payout amounts by age
  - Group 1
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    - Ordinary Disability
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- Retirements by Option
- Retirements by Sex
- Retirements by DOB
- Retirements by Retirement Year
- Housekeeping



**Chart 1: Rates of Superannuation Retirements (1992-2011 -- 115,347 total)**

System	Count	Group1	Group2	Group3	Group4	Group5
Barnstable	2060	85.9%	87.5%		72.5%	
Beverly	345	85.3%	80.0%		68.0%	
Bristol	1791	88.4%	94.7%		69.6%	
Brockton	900	87.7%	64.7%		67.4%	
Cambridge	1486	83.9%	89.5%		58.8%	
Chicopee	534	86.4%			72.5%	
Fall River	1020	82.6%	55.0%		64.8%	
Framingham	567	89.8%			73.5%	
Hampshire	864	89.6%	0.0%		77.1%	
Holyoke	656	88.7%	100.0%		78.7%	
Lowell	875	88.6%	100.0%		63.5%	
Lynn	796	85.1%	93.8%		72.5%	
Middlesex	4076	90.3%	92.3%		75.4%	
Peabody	527	90.0%	100.0%		80.6%	
Pittsfield	467	88.9%	25.0%		72.3%	
Springfield	2250	85.1%	83.3%		59.1%	
State	42703		94.3%	80.0%	78.1%	90.4%
Teachers	48665	96.7%				
Waltham	510	86.8%	84.6%		74.3%	
Worcester County	2235	90.9%	100.0%		74.0%	
Worcester	2020	84.2%	71.4%		51.6%	

Note: The "rate" presented here is the percentage of of retirement cases in our sample that were for superannuation.

**Chart 2: Rates of Ordinary Disability Retirements (1992-2011 -- 115,347 total)**

system	Count	Group1	Group2	Group3	Group4	Group5
Barnstable	2060	2.6%	4.2%		2.0%	
Beverly	345	3.2%	0.0%		1.6%	
Bristol	1791	2.2%	0.0%		1.1%	
Brockton	900	2.2%	11.8%		0.4%	
Cambridge	1486	2.0%	0.0%		2.8%	
Chicopee	534	0.5%			0.0%	
Fall River	1020	4.4%	0.0%		1.8%	
Framlingham	567	4.0%			0.6%	
Hampshire	864	0.8%	0.0%		0.7%	
Holyoke	656	1.6%	0.0%		1.8%	
Lowell	875	1.6%	0.0%		0.7%	
Lynn	796	1.6%	0.0%		1.3%	
Middlesex	4076	4.2%	0.0%		3.2%	
Peabody	527	1.3%	0.0%		0.7%	
Pittsfield	467	1.4%	0.0%		0.0%	
Springfield	2250	1.7%	0.0%		0.9%	
State	42703		1.2%	0.7%	1.1%	1.5%
Teachers	48665	0.7%				
Waltham	510	2.2%	7.7%		1.2%	
Worcester County	2235	1.1%	0.0%		1.7%	
Worcester	2020	1.9%	14.3%		0.9%	

Note: The "rate" presented here is the percentage of of retirement cases in our sample that were for ordinary disability.

**Chart 3: Rates of Accidental Disability Retirements (1992-2011 -- 115,347 total)**

System	Count	Group1	Group2	Group3	Group4	Group5
Barnstable	2060	7.2%	4.2%		22.2%	
Beverly	345	5.5%	20.0%		19.7%	
Bristol	1791	4.8%	5.3%		23.2%	
Brockton	900	5.9%	23.5%		29.1%	
Cambridge	1486	7.1%	5.3%		23.5%	
Chicopee	534	6.4%			21.9%	
Fall River	1020	8.2%	40.0%		28.1%	
Framlingham	567	3.5%			18.1%	
Hampshire	864	3.3%	0.0%		18.1%	
Holyoke	656	5.2%	0.0%		14.2%	
Lowell	875	5.3%	0.0%		27.3%	
Lynn	796	9.1%	6.3%		19.2%	
Middlesex	4076	4.9%	7.7%		20.5%	
Peabody	527	4.2%	0.0%		13.2%	
Pittsfield	467	6.6%	0.0%		21.4%	
Springfield	2250	8.0%	0.0%		27.4%	
State	42703		1.5%	18.4%	18.0%	4.1%
Teachers	48665	0.4%				
Waltham	510	3.4%	0.0%		17.5%	
Worcester County	2235	4.1%	0.0%		17.9%	
Worcester	2020	5.5%	14.3%		29.4%	

Note: The "rate" presented here is the percentage of retirement cases in our sample that were for accidental disability.

**Chart 4: Rates of Accidental Death Retirements (1992-2011 -- 115,347 total)**

System	Count	Group1	Group2	Group3	Group4	Group5
Barnstable	2060	0.5%	0.0%		2.4%	
Beverly	345	1.4%	0.0%		8.2%	
Bristol	1791	0.8%	0.0%		4.6%	
Brockton	900	0.2%	0.0%		2.3%	
Cambridge	1486	1.9%	5.3%		13.2%	
Chicopee	534	0.0%			3.8%	
Fall River	1020	0.7%	0.0%		2.9%	
Framingham	567	0.8%			5.4%	
Hampshire	864	0.1%	0.0%		1.4%	
Holyoke	656	0.7%	0.0%		3.1%	
Lowell	875	0.7%	0.0%		5.5%	
Lynn	796	0.0%	0.0%		4.8%	
Middlesex	4076	0.1%	0.0%		0.5%	
Peabody	527	0.8%	0.0%		1.4%	
Pittsfield	467	0.0%	25.0%		4.5%	
Springfield	2250	1.3%	0.0%		12.0%	
State	42703		0.0%	0.3%	0.3%	0.3%
Teachers	48665	0.0%				
Waltham	510	3.7%	0.0%		4.7%	
Worcester County	2235	0.4%	0.0%		3.9%	
Worcester	2020	3.0%	0.0%		16.2%	

Note: The "rate" presented here is the percentage of retirement cases in our sample that were for accidental death.

The sum of percentages in corresponding cells across this chart and the preceding three charts does not sum to 100% because it excludes cases of in-service death that did not qualify for accidental death benefits (the payee would be the designated beneficiary if any).



**Chart 5: Group 1 Retirements by Age Bands (5 year intervals) and by Retirement Type (1992-2011, 64019)**  
(excluding 1079 "active" -- the "ageret5" column shows the bottom of the 5 year interval selected)

ageret5	SA	OD	ADis	ADeath	I-sDeath
	3	1	0	1	0
-35	1	0	0	0	0
0	0	0	0	0	2
5	0	0	0	0	2
10	0	0	0	0	1
20	0	0	1	0	3
25	1	1	4	1	4
30	0	1	26	3	6
35	4	17	74	6	15
40	104	54	123	6	59
45	470	145	196	14	85
50	2001	280	227	20	121
55	25532	72	269	7	121
60	23771	63	170	17	99
65	7714	20	42	12	45
70	1326	8	20	13	12
75	350	7	7	16	8
80	127	3	9	12	1
85	38	1	1	5	0
90	10	1	1	1	0
95	5	0	0	0	0

**Chart 5A: Annual Amounts for Group 1 Retirees**

ageret5	SA	OD	ADis	ADeath	I-sDeath
NULL	\$ 4,037	\$ 4,295	\$ -	\$ 3,953	\$ -
-35	\$ 28,151	\$ -	\$ -	\$ -	\$ -
0	\$ -	\$ -	\$ -	\$ -	\$ 2
5	\$ -	\$ -	\$ -	\$ -	\$ 1
10	\$ -	\$ -	\$ -	\$ -	\$ 1
20	\$ -	\$ -	\$ 4,358	\$ -	\$ 2,962
25	\$ 5,461	\$ 3	\$ 24,339	\$ 5,404	\$ 3,541
30	\$ -	\$ 3,478	\$ 15,243	\$ 13,984	\$ 8,219
35	\$ 4,488	\$ 7,875	\$ 16,582	\$ 8,342	\$ 4,947
40	\$ 14,813	\$ 10,702	\$ 29,512	\$ 11,940	\$ 5,042
45	\$ 16,941	\$ 15,541	\$ 22,122	\$ 10,455	\$ 7,272
50	\$ 22,376	\$ 17,609	\$ 22,434	\$ 7,419	\$ 20,513
55	\$ 45,364	\$ 23,798	\$ 32,395	\$ 22,311	\$ 10,630
60	\$ 41,115	\$ 22,009	\$ 24,766	\$ 17,429	\$ 11,659
65	\$ 31,841	\$ 16,525	\$ 19,938	\$ 9,707	\$ 9,108
70	\$ 25,227	\$ 12,692	\$ 17,008	\$ 6,730	\$ 8,982
75	\$ 19,521	\$ 11,362	\$ 12,657	\$ 8,939	\$ 13,339
80	\$ 13,068	\$ 8,634	\$ 10,206	\$ 9,073	\$ 33,882
85	\$ 9,929	\$ 10,867	\$ 9,270	\$ 7,944	\$ -
90	\$ 6,901	\$ 9,000	\$ 284	\$ 2,820	\$ -
95	\$ 5,921	\$ -	\$ -	\$ -	\$ -

**Chart 6: Group 4 Retirements by Age Bands (5 year intervals) and by Retirement Type (1992-2011, 9424)**  
(Including 5 with missing values — the "ageret5" column shows the bottom of the 5 year interval selected)

ageret5	SA	OD	ADis	ADeath	I-sDeath
NULL	5	0	1	1	0
0	1	0	0	0	0
5	0	0	0	1	1
10	0	0	0	0	1
15	2	0	0	0	1
20	0	0	1	0	0
25	0	0	27	0	2
30	3	5	118	6	16
35	32	16	261	8	20
40	520	18	322	20	36
45	618	35	385	21	40
50	1229	28	362	35	33
55	2778	6	314	69	21
60	1204	8	159	47	7
65	309	0	26	34	1
70	34	1	11	30	1
75	22	0	2	33	1
80	15	1	5	24	0
85	9	1	3	5	0
90	2	0	0	2	0
95	1	0	0	2	0

**Chart 6A: Annual Amount for Group 4 Retirees.**

ageret5	SA	OD	ADis	ADeath	I-sDeath
NULL	\$ 11,475	\$ -	\$ 12,232	\$ 9,225	\$ -
0	\$ 70,111	\$ -	\$ -	\$ -	\$ -
5	\$ -	\$ -	\$ -	\$ 32	\$ 1,993
10	\$ -	\$ -	\$ -	\$ -	\$ 18
15	\$ 15,083	\$ -	\$ -	\$ -	\$ 32,385
20	\$ -	\$ -	\$ 12,618	\$ -	\$ -
25	\$ -	\$ -	\$ 28,322	\$ -	\$ 11,179
30	\$ 16,509	\$ 22,630	\$ 30,784	\$ 20,479	\$ 17,355
35	\$ 29,805	\$ 19,940	\$ 31,902	\$ 35,131	\$ 19,161
40	\$ 30,820	\$ 23,368	\$ 31,512	\$ 27,959	\$ 25,299
45	\$ 30,398	\$ 24,858	\$ 31,254	\$ 31,795	\$ 26,162
50	\$ 37,747	\$ 29,348	\$ 33,335	\$ 25,289	\$ 38,434
55	\$ 41,140	\$ 23,373	\$ 33,729	\$ 28,039	\$ 36,731
60	\$ 38,743	\$ 48,053	\$ 31,987	\$ 18,805	\$ 36,750
65	\$ 36,062	\$ -	\$ 32,624	\$ 10,990	\$ 31,765
70	\$ 18,591	\$ 13,043	\$ 18,812	\$ 5,636	\$ 19,339
75	\$ 17,084	\$ -	\$ 9,270	\$ 11,761	\$ 8,554
80	\$ 17,553	\$ 9	\$ 12,678	\$ 9,494	\$ -
85	\$ 17,901	\$ 12,655	\$ 21,679	\$ 15,865	\$ -
90	\$ 15,382	\$ -	\$ -	\$ 9,113	\$ -
95	\$ 18,647	\$ -	\$ -	\$ 9,225	\$ -

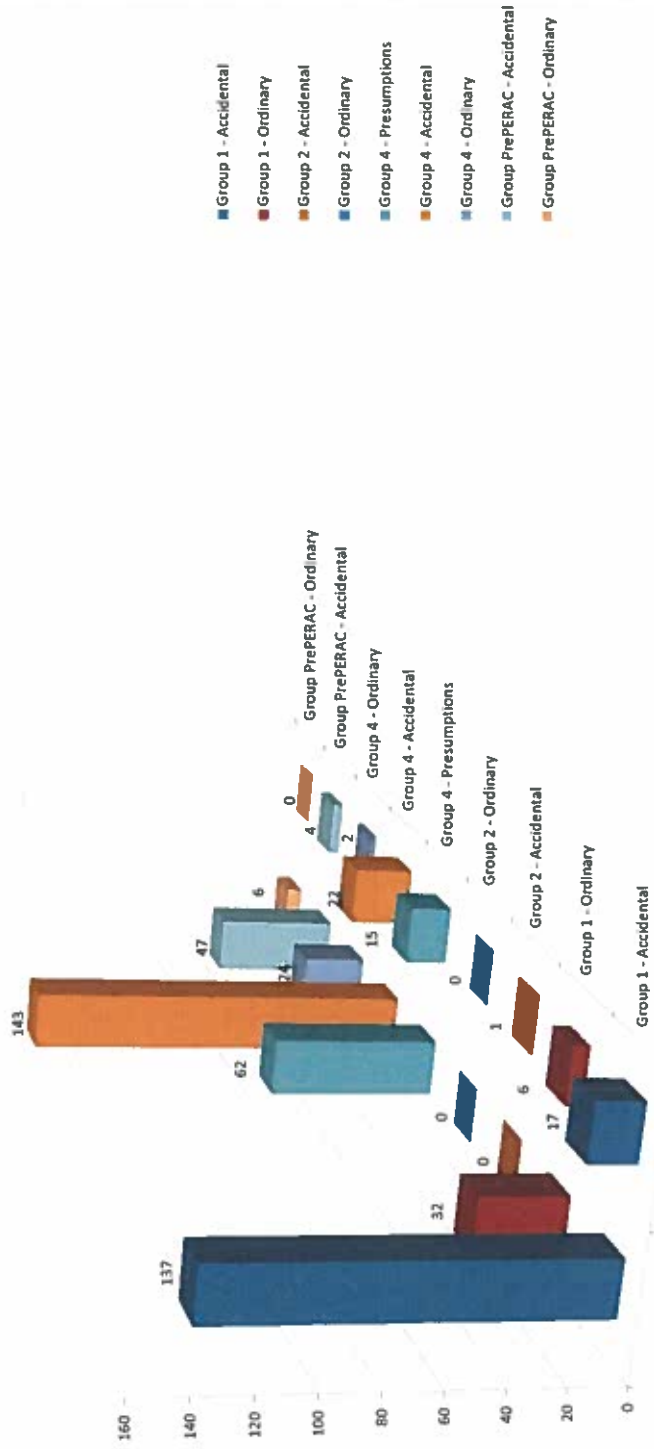
Department Name	Dept.	Count	Group1	Group2	Group3	Group4	Group5
APPELLATE TAX BOARD	158	259					0%
DEPARTMENT OF REVENUE	168	665					1%
DEPT. OF CORRECTIONS - COMMISSION CENTRAL	182	2322		1%		21%	25%
WORCESTER CTY SHERIFF'S DEPARTMENT	188	219		0%		13%	16%
BRIDGEWATER STATE COLLEGE	194	339					1%
FITCHBURG STATE COLLEGE	196	257					1%
SALEM STATE COLLEGE	200	330					2%
WESTFIELD STATE COLLEGE	201	222				0%	2%
DEPARTMENT OF PUBLIC HEALTH	225	461		0%			2%
EXEC OFFICE OF PUBLIC SAFETY - STATE POLICE	321	1186			21%	95%	48%
DEPARTMENT OF TRANSITIONAL ASSISTANCE	330	1397				100%	1%
REGISTRY OF MOTOR VEHICLES	340	323			0%	11%	2%
STATE LOTTERY COMMISSION	411	202					6%
COMMISSIONER OF PROBATION	564	436		1%		0%	1%
EXEC. OFFICE/HUMAN SERVICES-DIV. OF MEDICAL	626	332					1%
ADMIN. OFFICE OF THE TRIAL COURT	747	304		6%		100%	6%
MASS REHABILITATION COMMISSION	760	428		0%		100%	1%
DEPT. OF EDUCATION	780	274		0%			1%
MASSASOIT COMMUNITY COLLEGE	828	223					0%
ENVIRONMENTAL PROTECTION	959	319					1%
EXECUTIVE OFFICE OF LABOR	964	304					0%
HAMPDEN COUNTY SHERIFF'S DEPARTMENT	995	201		0%		17%	26%
DIVISION OF EMPLOYMENT SECURITY	1010	722		0%			0%
DEPT. OF PUBLIC WORKS, CLASSIFIED	1015	1175				50%	6%
M.D.C. ADMIN / MAIN OFFICE HUMAN RESOURCE	1060	238				0%	8%
DANVERS STATE HOSPITAL	1095	217		1%		100%	19%
SOCIAL SERVICES	1104	898		0%			2%
TAUNTON STATE HOSPITAL /EFFECTIVE 11-1-83 S	1145	298		0%			27%
TEWKSBURY HOSPITAL	1150	417		0%			18%
METRO SUBURBAN (METRO WEST)	1155	416		0%			13%
DMH CENTRAL MASS	1160	364		1%			12%
LEMUEL SHATTUCK HOSPITAL	1165	268		0%			7%
MASS HOSPITAL SCHOOL	1260	201		0%		100%	7%
UNIVERSITY OF MASS - AMHERST	1270	2473		0%		50%	2%
UNIVERSITY OF MASS. - BOSTON CAMPUS	1271	619		0%			1%
UNIVERSITY OF MASSACHUSETTS - WORCESTER	1272	1772		0%		67%	3%
UNIVERSITY OF MASS/LOWELL	1273	498		0%			1%
UNIVERSITY OF MASS. - DARTMOUTH	1274	436		0%			2%
MASS DEPT OF TRANSPORTATION	1610	633			0%	100%	9%
DMR REGION 1	2140	354		2%		100%	15%
DMR MONSON DEVELOPMENTAL CENTER	2180	533		1%		100%	8%
DMR HOGAN BERRY REGIONAL CENTER	2200	232		5%		100%	14%
DMR WALTER E. FERNALD STATE SCHOOL	2220	561		1%		100%	7%
DMR WRENTHAM DEVELOPMENTAL CENTER	2230	669		2%		100%	15%
DMR REGION V	2240	312		0%			13%
DMR PAUL A. DEVER STATE SCHOOL	2250	241		0%			4%
		3003		0%	0%	2%	1%

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# Appendix F

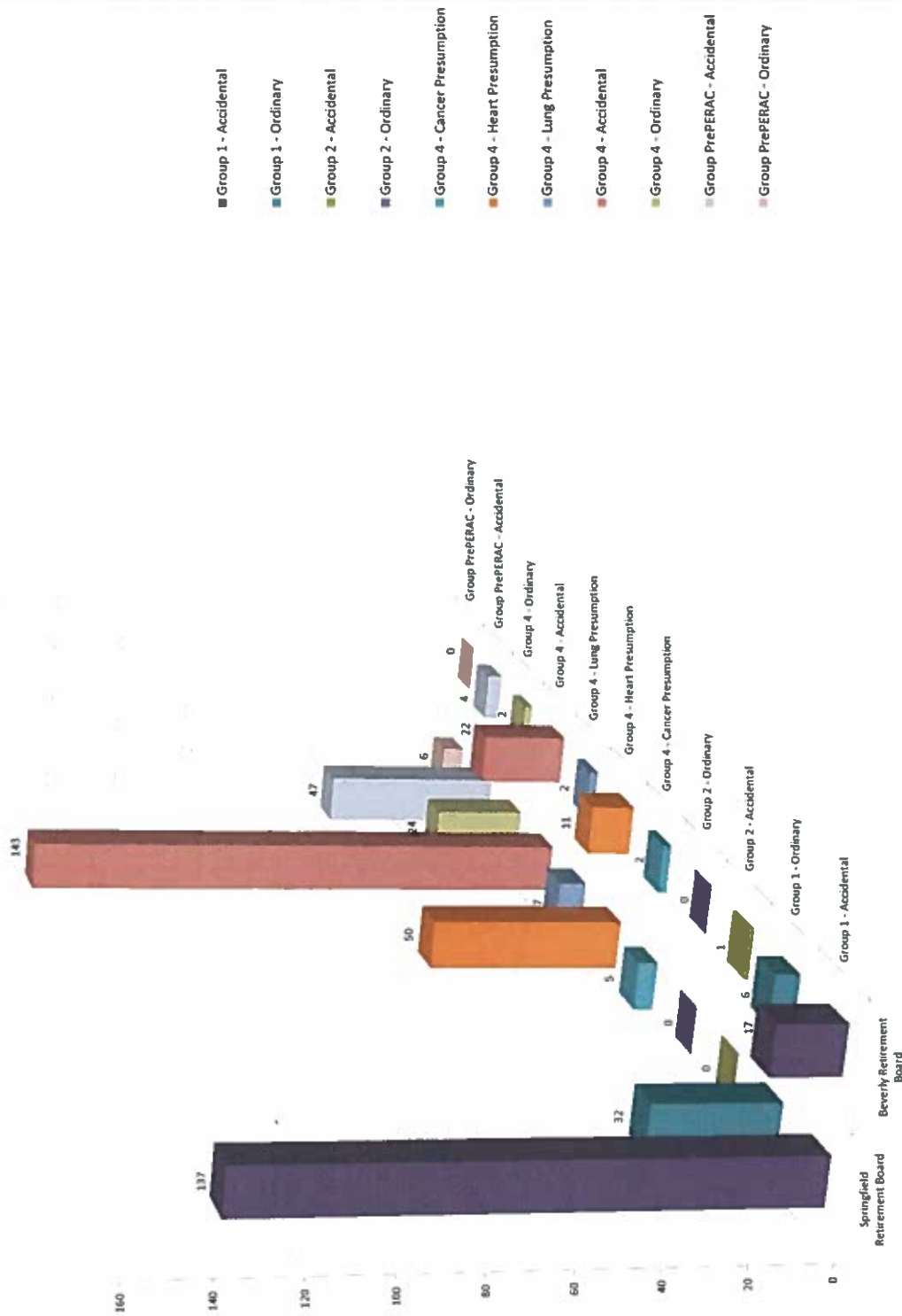
**Data Analysis by PERAC**

# Active Disability Retirees Beverly and Springfield Retirement Boards By Group and Disability Type



	Springfield Retirement Board	Beverly Retirement Board
Group 1 - Accidental	137	17
Group 1 - Ordinary	32	6
Group 2 - Accidental	0	1
Group 2 - Ordinary	0	0
Group 4 - Presumptions	62	15
Group 4 - Accidental	143	22
Group 4 - Ordinary	24	2
Group PrePERAC - Accidental	47	4
Group PrePERAC - Ordinary	6	0

# Active Disability Retirees Beverly and Springfield Retirement Boards By Group and Disability Type



	Springfield Retirement Board	Beverly Retirement Board	Beverly Retirement Board
Group 1 - Accidental	137	143	17
Group 1 - Ordinary	32	47	6
Group 2 - Accidental	0	34	1
Group 2 - Ordinary	0	6	0
Group 4 - Cancer Presumption	5	22	2
Group 4 - Heart Presumption	50	2	0
Group 4 - Lung Presumption	7	11	2
Group 4 - Accidental	143	2	22
Group 4 - Ordinary	24	2	2
Group PrePERAC - Accidental	47	4	4
Group PrePERAC - Ordinary	6	0	0

# Active Disability Retirees Beverly and Springfield Retirement Boards By Group & Disability Type & Retirement Age

