

**HOUSE . . . . . No. 2485**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Jay R. Kaufman**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to pension reform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jay R. Kaufman	15th Middlesex
Donnelly, Kenneth (SEN)	Fourth Middlesex
Martha M. Walz	8th Suffolk
Rosemary Sandlin	3rd Hampden
Todd M. Smola	1st Hampden
William N. Brownsberger	24th Middlesex
Anne M. Gobi	5th Worcester
Denise Provost	27th Middlesex
Jennifer M. Callahan	18th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2603 OF 2007-2008.]

## The Commonwealth of Massachusetts

CORRECTED TEXT

In the Year Two Thousand and Nine

### AN ACT RELATIVE TO PENSION REFORM.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Subdivision (2) of Section 23 of Chapter 32 of the General Laws is hereby amended by  
2 striking out sub-paragraph (b) and inserting in place thereof the following: -

3 (b) The board of each system shall invest and reinvest the funds of such system in the PRIT Fund  
4 pursuant to subdivision (8) of section twenty two, in the PRIT Fund by purchasing shares of said fund, as  
5 provided for in the trust agreement adopted by the PRIM Board pursuant to subdivision (2A) or as  
6 follows:-

7 (i) in accordance with the standards set forth in subdivision (3), provided that: -

8 (A) no investment of funds shall be made in stocks, securities or other obligations of any  
9 company which derives more than 15 per cent of its revenues from the sale of tobacco products.

10 (B) in investing such funds the board shall employ an investment manager or investment  
11 managers who shall invest the funds of the system.

12 (C) no funds shall be invested directly in mortgages or collateral loans.

13 No investment of funds shall take place until board has received from the commission an  
14 acknowledgement of receipt of the following:-

15 (a) certification that, in making the selection, the board has complied with the process established  
16 in section 23A;

17 (b) a copy of the vendor certification required under section 23A;

18 (c) copies of disclosure forms submitted by the selected vendor;

19 (d) a certification that the investment is not a prohibited investment as set forth in regulations of  
20 the commission;

21 (e) in the event that the board has retained a consultant, a copy of the consultant reports pertaining  
22 to the investment and the selected vendor;

23 (f) a copy of the board certification required under section 23A.

24 The commission may withhold the acknowledgement if it determines that it is in the best interest of the  
25 retirement system provided, however, that it must so notify the board within ten days of receipt of  
26 completed documents as required by this section.

27 Prior to the retention of an investment consultant the board must receive from the commission an  
28 acknowledgement of receipt of the following:-

29 (a) certification that, in making the selection, the board has complied with the process established  
30 in section 23A;

31 (b) copy of the vendor certification required under section 23A;

32 (c) copies of disclosure forms submitted by the selected consultant;

33 (d) copy of the board certification required under section 23A.

34 Section 2. Section 50 of Chapter 7 of the General Laws as appearing in the 2004 Official Edition is  
35 hereby amended by striking out lines 68 through 69 inclusive.

36 Section 3. Clause 19 of paragraph (b) of Section (1) of Chapter 30B of the General Laws is hereby  
37 amended by adding the following:-

38 provided, however, that such procurements shall take place in accordance with the provisions of section  
39 23A of chapter 32.

40 Section 4. Chapter 32 of the General Laws is hereby amended by adding the following section: -

41 Section 21A. (a) As used in this section the following words shall, unless the context requires otherwise,  
42 have the following meanings: -

43 "Affiliates", entities which are affiliates of each other when either directly or indirectly one concern or  
44 individual controls or has the power to control another, or when a third party controls or has the power to  
45 control both.

46 "Commission", the Public Employee Retirement Administration Commission.

47 "Contract", a contract for the furnishing of supplies or services to any retirement board.

48 "Debarment", an exclusion from contracting or subcontracting with a retirement board for a reasonable,  
49 specified period of time commensurate with the seriousness of the offense.

50 "Person", any natural person, business, partnership, corporation, union, committee, club or other  
51 organization, entity or group of individuals.

52 "Retirement board", a board established pursuant to the provisions of chapter 32, the provisions of chapter  
53 34B or the Massachusetts water resources authority retirement board, excluding the pension reserves  
54 investment management board.

55 "Suspension", the temporary disqualification of a vendor who is suspected upon adequate evidence of  
56 engaging or having engaged in conduct which constitutes grounds for debarment.

57 "Vendor", any person that has furnished or seeks to furnish supplies or services under a contract with a  
58 retirement board.

59 (b) The Commission shall establish and maintain a consolidated list of vendors to whom contracts shall  
60 not be awarded and from whom offers, bids, or proposals shall not be solicited. The list shall show at a  
61 minimum the following information: (1) the names of those persons debarred or suspended in alphabetical  
62 order with appropriate cross reference where more than one name is involved in a single debarment or  
63 suspension; (2) the basis of authority for each debarment or suspension; (3) the extent of restrictions  
64 imposed; (4) the termination date of each debarment or suspension; and (5) in the case of a suspension,  
65 the hearing date, if and when set, for debarment proceedings.

66 The commission shall cause the list to be kept current by the issuance of notices of additions and  
67 deletions. The list shall be published on a periodic basis, together with notices of additions and deletions  
68 therefrom, in the goods and services bulletin and the central register published by the state secretary and  
69 in such other publications as the commission shall designate. The commission shall also forward said list  
70 to the inspector general, the attorney general, and the state auditor.

71 (c) Debarment may be imposed for the following causes:

72 (1) conviction or final adjudication by a court or administrative agency of competent jurisdiction of any of  
73 the following offenses: (i) a criminal offense incident to obtaining or attempting to obtain a public or  
74 private contract or subcontract, or in the performance of such contract or subcontract; (ii) a criminal  
75 offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving  
76 stolen property or any other offense indicating a lack of business integrity or business honesty which  
77 seriously and directly affects the vendor's present responsibility as a public contractor; (iii) a violation of  
78 state or federal antitrust laws arising out of the submission of bids or proposals; (iv) a violation of chapter  
79 two hundred and sixty-eight A; (v) a violation of chapter thirty – two-.

80 (2) substantial evidence, as determined by the commission, of any of the following acts:

81 (i) willfully supplying materially false information incident to obtaining or attempting to obtain or  
82 performing any public contract or subcontract; (ii) willful failure to comply with record-keeping and  
83 accounting requirements prescribed by law or regulation; (iii) a record of failure to perform or of  
84 unsatisfactory performance in accordance with the terms of one or more public contracts, provided that  
85 such failure to perform or unsatisfactory performance has occurred within a reasonable period of time  
86 preceding the determination to debar and provided further that such failure to perform or unsatisfactory  
87 performance was not caused by factors beyond the vendor's control; (iv) the submission to the board or

88 the commission of an inaccurate disclosure statement (v); the failure to disclose to the board and the  
89 commission any compensation provided to any person in regards to attempting to obtain or the  
90 performance of a public contract or subcontract, including, but not limited to, compensation provided by  
91 third parties retained by the vendor to any other person; (vi) any other cause affecting the responsibility of  
92 a vendor which the commission determines to be of such a serious and compelling nature as to warrant  
93 debarment.

94 (d) No vendor may be suspended unless the commission has first informed the vendor by written notice of  
95 the proposed suspension mailed by registered or certified mail to the vendor's last known address, except  
96 when the commission determines that immediate suspension is necessary to prevent serious harm to the  
97 retirement system, in which case the suspension shall take effect immediately upon signing by the  
98 executive director of an order of suspension, and notice shall be mailed to the vendor at the earliest  
99 opportunity. The notice shall inform the vendor of the reasons for the proposed suspension and shall state  
100 that the vendor may within fourteen days respond in writing and may in such response request a hearing.  
101 The commission may extend the period for response at the request of the vendor. The commission shall  
102 determine whether to impose the suspension or, in the case of an emergency suspension imposed prior to  
103 notice to the vendor, whether to continue the suspension after reviewing the vendor's response, if any, and  
104 making such investigation as the commission determines is necessary and appropriate. An indictment, or  
105 any information or other filing by a public agency charging a criminal offense, for any of the offenses  
106 listed in paragraph (1) of subsection (c) shall constitute adequate evidence to support a suspension.

107 If the vendor requests a hearing, and the suspension is not based on an indictment, the commission shall  
108 conduct a hearing according to the rules for the conduct of adjudicatory hearings established by the  
109 secretary of administration pursuant to chapter thirty A. Such hearing shall be initiated within thirty days  
110 of the imposition of the suspension, unless the vendor requests that the hearing be delayed. Officers and  
111 employees of the commission and records of the commission shall not be subject to subpoena for such  
112 hearing, if in the opinion of the commission production of records or testimony would prejudice any  
113 pending investigation by the commission.

114 A suspension shall not exceed twelve months unless a pending administrative or judicial proceeding in  
115 which the vendor is a party may result in a conviction or final adjudication of an offense listed in  
116 paragraph (1) of subsection (c).

117 (e) No vendor may be debarred under this section unless the commission has first informed the vendor by  
118 written notice of the proposed debarment mailed by registered or certified mail to the vendor's last known  
119 address. The notice shall inform the vendor of the reasons for the debarment and shall state that the  
120 vendor will be accorded an opportunity for a hearing if the vendor so requests within fourteen days of  
121 receipt of the notice. A hearing requested under this paragraph shall be conducted by the commission  
122 within sixty days of receipt of the request, unless the commission grants additional time therefore at the  
123 request of the vendor. The hearing shall be conducted according to the rules for the conduct of  
124 adjudicatory hearings established by the commissioner of administration pursuant to chapter thirty A. A  
125 debarment shall not be imposed until (i) fourteen days after receipt by the vendor of notice of the  
126 proposed debarment if no hearing is requested, or (ii) the issuance of a written decision by the  
127 commission which makes specific findings that there is sufficient evidence to support the debarment and  
128 that debarment for the period specified in the decision is required to protect the integrity of the public

129 contracting process. A vendor shall be notified forthwith of the decision by registered or certified mail,  
130 and of the vendor's right to judicial review in the event that the decision is adverse to the vendor. If a  
131 suspension precedes a debarment, the suspension period shall be considered in determining the debarment  
132 period.

133 (f) A debarment or suspension may include all known affiliates of a vendor. The decision to include a  
134 known affiliate within the scope of a debarment or suspension shall be made on a case-by-case basis, after  
135 giving due regard to all relevant facts and circumstances. The offense or act of an individual justifying  
136 suspension, or the evidence justifying a suspension, may be imputed to the entity with which the  
137 individual is connected when such offense or act occurred in connection with the individual's  
138 performance of duties for or on behalf of the entity or with the knowledge, approval, or acquiescence of  
139 the entity or one or more of its principals. The entity's acceptance of the benefits derived from the conduct  
140 shall be evidence of such knowledge, approval, or acquiescence. The offense or act of an entity justifying  
141 debarment, or the evidence justifying a suspension, may be imputed to any officer, director, shareholder,  
142 partner, employee or other individual associated with the entity who participated in, knew of, or had  
143 reason to know of the entity's act. An entity may not be suspended or debarred except in accordance with  
144 the procedures set forth in this section.

145 (g) In determining whether to debar a vendor, or the period of a debarment, all mitigating facts and  
146 circumstances shall be taken into consideration. A debarment may be removed or the period thereof may  
147 be reduced by the commission upon the submission of an application supported by documentary evidence  
148 setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence,  
149 reversal of a judgment or conviction, bona fide change of ownership or management, or the elimination of  
150 the cause for which the debarment was imposed.

151 (h) During the period for which a person has been debarred or suspended, that person shall not submit or  
152 cause to be submitted offers, bids, or proposals to any retirement board, nor shall any retirement board  
153 solicit or consider offers, bids, or proposals from, nor execute, renew, or extend any contract with, a  
154 debarred or suspended vendor, and a vendor shall not contract for services from a debarred or suspended  
155 subcontractor on any contract with a retirement system.

156 Section 5. Subdivision (3) of Section 23 of Chapter 32 of the General Laws is hereby amended by adding  
157 the following:

158 Each member of a retirement board established pursuant to the provisions of this chapter shall upon the  
159 commencement of their term file with the commission a statement acknowledging that they are aware of  
160 and will comply with the standards set forth in chapter 268A of the general laws, the provisions of this  
161 chapter and the provisions of regulations promulgated pursuant to this chapter.

162 Section 6. Chapter 32 of the General Laws is hereby amended by adding the following section:-

163 Section 20C. (a) Every member of a retirement board shall file a statement of financial interests for the  
164 preceding calendar year with the commission within thirty days after becoming a member of a retirement  
165 board, on or before May first of each year thereafter that such person is a member of a retirement board  
166 and on or before May first of the year after such person ceases to be a member of a retirement board;

167 (b) The commission shall, upon receipt of a statement of financial interests pursuant to the provisions of  
168 this section, issue to the person filing such statement a receipt verifying the fact that a statement of  
169 financial interests has been filed and a receipted copy of such statement.

170 (c) No member of a retirement board shall be allowed to continue in his duties unless he has filed a  
171 statement of financial interests with the commission as required by this section.

172 (d) The statement of financial interests filed pursuant to the provisions of this section shall be on a form  
173 prescribed by the commission and shall be signed under penalty of perjury by the reporting person.

174 (e) Reporting persons shall disclose, to the best of their knowledge, the following information for the  
175 preceding calendar year, or as of the last day of said year with respect to the information required by  
176 clauses (2), (3) and (6) below; such persons shall also disclose the same information with respect to their  
177 immediate family provided, however, that no amount need be given for such information with regard to  
178 the reporting person's immediate family:

179 (1) the name and address of, the nature of association with, the share of equity in, if applicable, of  
180 each business with which he is associated;

181 (2) the identity of all securities and other investments with a fair market value of greater than one  
182 thousand dollars which were beneficially owned, not otherwise reportable hereunder;

183 (3) the name and address of each creditor to whom more than one thousand dollars was owed;  
184 provided, however, that obligations arising out of retail installment transactions, educational  
185 loans, medical and dental expenses, debts incurred in the ordinary course of business, and any  
186 obligation to make alimony or support payments, shall not be reported; and provided, further, that  
187 such information need not be reported if the creditor is a relative of the reporting person within  
188 the third degree of consanguinity or affinity;

189 (4) the name and address of the source, and the cash value of any reimbursement for expenses  
190 aggregating more than one hundred dollars in the calendar year if the recipient is a member of a  
191 retirement board and the source of such reimbursement is a person having a direct interest in a  
192 matter before the retirement board of which the recipient is a member;

193 (5) the name and address of the donor, and the fair market value, if determinable, of any gifts in  
194 the calendar year, if the recipient is a member of a retirement board and the source of such gift(s)  
195 is a person having a direct interest in a matter before the retirement board of which the recipient is  
196 a member;

197 (6) the name and address of the source, and the fair market value, of any honoraria aggregating  
198 more than one hundred dollars if the recipient is a member of a retirement board and the source of  
199 such honoraria is a person having a direct interest in a matter before a retirement board;

200 (7) the name and address of any creditor who has forgiven an indebtedness of over one thousand  
201 dollars, and the amount forgiven if the creditor is a person having a direct interest in a matter  
202 before a retirement board; provided, however, that no such information need be reported if the

203 creditor is a relative within the third degree of consanguinity or affinity of the reporting person, or  
204 the spouse of such a relative; and ,

205 (8)the name and address of any business from which the reporting person is taking a leave of  
206 absence;

207 Nothing in this section shall be construed to require the disclosure of information, which is privileged by  
208 law.

209 Failure of a reporting person to file a statement of financial interests within ten days after receiving notice  
210 in writing from the Commission which states in detail the deficiency and the penalties for failure to file a  
211 statement of financial interests, or the filing of an incomplete statement of financial interests after receipt  
212 of such a notice shall result in the removal of the reporting person from the board from the board and he  
213 or she shall not be permitted to serve on any retirement board established pursuant to the provisions of  
214 this chapter. Said failure is a violation of this chapter and the commission may initiate appropriate  
215 proceedings pursuant to the provisions of section twenty-four.

216 Section 7. Clause 26<sup>th</sup> of Section 7 of Chapter 4 of the General Laws is hereby amended by adding the  
217 following sub-clause:-

218 (q) statements filed pursuant to Section 20C of Chapter 32.

219 Section 8. Section 20 of Chapter 32 of the General Laws is hereby amended by adding the following  
220 paragraph:-

221 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration, financial benefit or  
222 consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the  
223 retirement board, from a retirement board or from any person doing business with a retirement board shall  
224 be eligible to serve on a retirement board provided, however, that an employee of a retirement board may  
225 serve on a retirement board other than the retirement board by which he or she is employed and provided,  
226 further, that the provisions of this paragraph shall take effect at the completion of the board members  
227 current term.

228 Section 9. Paragraph (b) of Section 19 of Chapter 34B of the General Laws is hereby amended in line 14  
229 by inserting the following after the word “32”:-

230 Provided that no employee, contractor, vendor or person receiving any remuneration, financial benefit or  
231 consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the  
232 retirement board, from a retirement board or from any person doing business with a retirement board shall  
233 be eligible to serve on a retirement board provided, however, that an employee of a retirement board may  
234 serve on a retirement board other than the retirement board by which he or she is employed and provided,  
235 further, that the provisions of this paragraph shall take effect at the completion of the board members  
236 current term.

237 Section 10. Chapter 32 of the General Laws is hereby amended by adding the following section –

238 Section 23A (a) This section shall apply to every retirement board contract for the procurement of  
239 investment, actuarial, legal and accounting services.

240 As used in this section the following words shall, unless the context requires otherwise, have the  
241 following meanings:-

242 "Contract", all types of agreement for the procurement of services, regardless of what the parties may call  
243 the agreement.

244 "Contractor", a person having a contract with the retirement board.

245 "Retirement board", a board established under the provisions of this chapter , the provisions of chapter  
246 thirty – four B or the massachusetts water resources authority retirement board excluding the pension  
247 reserves investment management board.

248 "Majority vote", as to any action by or on behalf of a retirement board, a simple majority of the board.

249 "Minor informalities", minor deviations, insignificant mistakes, and matters of form rather than substance  
250 of the proposal, or contract document which can be waived or corrected without prejudice to other  
251 offerors, potential offerors, or the retirement board.

252 "Person", any natural person, business, partnership, corporation, union, committee, club, or other  
253 organization, entity or group of individuals.

254 "Procurement", acquiring a service, and all functions that pertain to the obtaining of a service, including  
255 description of requirements, selection and solicitation of sources, preparation and award of contract, and  
256 all phases of contract administration.

257 "Procurement officer", an individual duly authorized by the retirement board to assist in a procurement.

258 "Proposal", a written offer to provide a service at a stated price submitted in response to a request for  
259 proposals.

260 "Purchase description", the words used in a solicitation to describe the services to be purchased, including  
261 specifications attached to or incorporated by reference into the solicitation.

262 "Request for proposals", the documents utilized for soliciting proposals, including documents attached or  
263 incorporated by reference.

264 "Responsible bidder or offeror", a person who has the capability to perform fully the contract  
265 requirements, and the integrity and reliability which assures good faith performance.

266 "Responsive bidder or offeror", a person who has submitted a bid or proposal which conforms in all  
267 respects to the request for proposals.

268 "Services", the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a  
269 specific end product other than reports. This term shall not include employment agreements, collective  
270 bargaining agreements, or grant agreements.

271 (1) A retirement board shall enter into procurement contracts for investment, actuarial, legal and  
272 accounting services utilizing competitive sealed proposals, in accordance with the provisions of this  
273 section.

274 (2) A retirement board that awards a contract shall maintain a file on each such contract and shall include  
275 in such file a copy of all written documents required by this section. Written documents required by this  
276 section shall be retained by the retirement board for at least six years from the date of final payment under  
277 the contract.

278 (b) The retirement board or its procurement officer shall give public notice of the request for proposals  
279 and a reasonable time prior to the date for the opening of proposals. The notice shall:

280 (1) indicate where, when and for how long the request for proposal may be obtained;

281 (2) describe the service desired, and reserve the right of the retirement board to reject any or all  
282 bids;

283 (3) remain posted, for at least two weeks, in a conspicuous place in or near the offices of the  
284 retirement board until the time specified in the request for proposals; and

285 (4) be published at least once, not less than two weeks prior to the time specified for the receipt of  
286 proposals, in a newspaper of general circulation within the area served by the retirement board  
287 and in the case of a procurement for investment, accounting, actuarial or legal services in a  
288 publication of interest to those engaged in providing such services.

289 The retirement board or its procurement officer shall also place the notice in any publication established  
290 by the state secretary for the advertisement of such procurements.

291 The retirement board or its procurement officer may distribute copies of the notice to prospective bidders,  
292 and may compile and maintain lists of prospective bidders to which notices may be sent.

293 (c) The retirement board shall unconditionally accept a proposal without alteration or correction, except  
294 as provided in this paragraph. A bidder may correct, modify, or withdraw a proposal by written notice  
295 received in the office designated in the request for proposals prior to the time and date set for the proposal  
296 opening. After proposal opening, a bidder may not change the price or any other provision of the proposal  
297 in a manner prejudicial to the interests of the retirement board or fair competition. The retirement board  
298 shall waive minor informalities or allow the bidder to correct them. If a mistake and the intended proposal  
299 are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake  
300 to reflect the intended correct proposal and so notify the bidder in writing, and the bidder may not  
301 withdraw the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the  
302 proposal document but the intended correct proposal is not similarly evident.

303 (d) The retirement board shall solicit proposals through a request for proposals. The request for proposals  
304 shall include:

305 (1) the time and date for receipt of proposals, the address of the office to which the proposals are  
306 to be delivered, the maximum time for proposal acceptance by the retirement board;

307 (2) the purchase description and all evaluation criteria that will be utilized pursuant to paragraph  
308 (d); and

309 (3) all contractual terms and conditions applicable to the procurement provided that the contract  
310 may incorporate by reference a plan submitted by the selected offeror for providing the required  
311 services.

312 The request for proposals may incorporate documents by reference; provided, however, that the request  
313 for proposals specifies where prospective offerors may obtain the documents. The retirement board or its  
314 procurement officer shall make copies of the request for proposals available to all persons on an equal  
315 basis.

316 (e) The retirement board or its procurement officer shall not open the proposals publicly, but shall open  
317 them in the presence of one or more witnesses at the time specified in the request for proposals.  
318 Notwithstanding the provisions of section seven of chapter four, until the completion of the evaluations,  
319 or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the  
320 contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At  
321 the opening of proposals the retirement board or its procurement officer shall prepare a register of  
322 proposals which shall include the name of each offeror and the number of modifications, if any, received.  
323 The register of proposals shall be open for public inspection.

324 (f) The retirement board or its consultant retained pursuant to the provisions of this chapter shall be  
325 responsible for the initial evaluation of the proposals. The retirement board or its consultant retained  
326 pursuant to the provisions of this chapter shall prepare their initial evaluations based solely on the criteria  
327 set forth in the request for proposals. The evaluations shall specify in writing:

328 (1) for each evaluation criterion, a rating of each proposal as highly advantageous, advantageous,  
329 not advantageous, or unacceptable, and the reasons for the rating;

330 (2) a composite rating for each proposal, and the reasons for the rating; and

331 (3) revisions, if any, to each proposed plan for providing the required services which should be  
332 obtained by negotiation prior to awarding the contract to the offeror of the proposal.

333 In the event the initial evaluation is conducted by a consultant retained pursuant to the provisions of this  
334 chapter said consultant shall review all initial evaluations with the retirement board and provide to each  
335 member of the retirement board the initial evaluation of each proposal.

336 (g) The retirement board shall determine the most advantageous proposal from a responsible and  
337 responsive offeror taking into consideration price and the evaluation criteria set forth in the request for  
338 proposals. The retirement board shall award the contract by written notice to the selected offeror within  
339 the time for acceptance specified in the request for proposals. The parties may extend the time for  
340 acceptance by mutual agreement. The retirement board may condition an award on successful negotiation  
341 of the revisions specified in the evaluation, and shall explain in writing the reasons for omitting any such  
342 revision from a plan incorporated by reference in the contract.

343 (h) In the event of a competitive process to select an investment service provider the request for proposals  
344 shall include mandatory contractual terms and conditions to be incorporated into the contract including  
345 provisions stating that the contractor is a fiduciary with respect to the funds which the contractor invests  
346 on behalf of the retirement board, provisions stating that the contractor shall not be indemnified by the

347 retirement board, provisions requiring the contractor to annually inform the commission and the board of  
348 any arrangements in oral or in writing, for compensation or other benefit received or expected to be  
349 received by the contractor or a related person from others in connection with the contractor's services to  
350 the retirement board or any other client, provisions requiring the contractor to annually disclose to the  
351 commission and the retirement board any compensation, in whatever form, paid or expected to be paid,  
352 directly or indirectly, by the contractor or a related person to others in relation to the contractor's services  
353 to the retirement board or any other client, and provisions requiring the contractor to annually disclose to  
354 the commission and the retirement board in writing any conflict of interest the contractor may have that  
355 could reasonably be expected to impair the contractor's ability to render unbiased and objective services to  
356 the retirement board. Other mandatory contractual terms and conditions shall address investment  
357 objectives, brokerage practices, proxy voting and tender offer exercise procedures, terms of employment  
358 and termination provisions. The retirement board shall make a preliminary determination of the most  
359 advantageous proposal from a responsible and responsive offeror taking into consideration price and the  
360 evaluation criteria set forth in the request for proposals. The retirement board or its duly designated agent,  
361 subject to the approval of the retirement board, may negotiate all terms of the contract not deemed  
362 mandatory or non-negotiable with such offeror. If, after negotiation with such offeror, the retirement  
363 board in consultation with its duly designated agent and its consultant retained pursuant to the provisions  
364 of this chapter determines that it is in the best interests of the retirement board, the retirement board in  
365 consultation with its consultant retained pursuant to the provisions of this chapter may determine the  
366 proposal which is the next most advantageous proposal from a responsible and responsive offeror taking  
367 into consideration price and the evaluation criteria set forth in the request for proposals, and may  
368 negotiate all terms of the contract with such offeror. The retirement board shall award the contract to the  
369 most advantageous proposal from a responsible and responsive offeror taking into consideration price, the  
370 evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The  
371 retirement board shall award the contract by written notice to the selected offeror within the time for  
372 acceptance specified in the request for proposals. The time for acceptance may be extended for up to 45  
373 days by mutual agreement between the retirement board and the responsible and responsive offeror  
374 offering the most advantageous proposal as determined by the retirement board.

375 On or before January 1 of each year the contractor shall file the disclosures required herein with the board  
376 and the commission. Failure to file disclosures or the filing of inaccurate disclosures shall subject the  
377 contractor to proceedings under section 21A.

378 (6) The retirement board may cancel a request for proposals or may reject in whole or in part any and all  
379 proposals when the retirement board determines that cancellation or rejection serves the best interests of  
380 the system. The retirement board shall state in writing the reason for a cancellation or rejection.

381 (7) A person submitting a proposal for the procurement or disposal of services to any retirement board  
382 shall certify in writing on the proposal as follows:

383 The undersigned certifies under penalties of perjury that this proposal has been made and submitted in  
384 good faith and without collusion or fraud with any other person. As used in this certification, the word  
385 ""person" shall mean any natural person, business, partnership, corporation, union, committee, club, or  
386 other organization, entity, or group of individuals.

387 \_\_\_\_\_

388 (Signature of individual submitting bid or proposal)

389 \_\_\_\_\_

390 (Name of business)

391 (8) Each retirement board member shall certify to the commission in writing with respect to a  
392 procurement subject to the provisions of this section, as follows:

393 The undersigned certifies under penalties of perjury that, to the best of his/her knowledge and belief, this  
394 proposal has been made and submitted in good faith and without collusion or fraud with any other person.  
395 As used in this certification, the word ""person" shall mean any natural person, business, partnership,  
396 corporation, union, committee, club, or other organization, entity, or group of individuals.

397 \_\_\_\_\_

398 (Signature of individual retirement board member)

399 \_\_\_\_\_

400 (Name of retirement board)

401 (9) No person shall cause or conspire to cause the splitting or division of any request for proposals,  
402 proposal, solicitation, or quotation for the purpose of evading a requirement of this section.

403 (10) Unless otherwise provided by law and subject to paragraph (a), a retirement board may enter into a  
404 contract for any period of time which serves the best interests of the retirement board; provided, however,  
405 that the retirement board shall include in the solicitation the term of the contract and conditions of  
406 renewal, extension or purchase, if any.

407 (a) A retirement board shall not award a contract for a term exceeding five years, including any renewal,  
408 extension, or option provided, however, that a retirement board may participate in a limited partnership,  
409 trust or other entity with a term for a period longer than five years as part of an investment of system  
410 assets.

411 When a contract is to contain an option for renewal, extension, or purchase, the solicitation shall include  
412 notice of the provision. The retirement board shall retain sole discretion in exercising the option, and no  
413 exercise of an option shall be subject to agreement or acceptance by the contractor.

414 (b) The retirement board shall not exercise an option for renewal, extension or purchase unless the  
415 retirement board, after reasonable investigation of costs and benefits, has determined in writing that the  
416 exercise of the option is more advantageous than alternate means of procuring comparable services.

417 (11) All specifications shall be written in a manner which describes the requirements to be met without  
418 having the effect of exclusively requiring a proprietary service, or a procurement from a sole source.

419 (12) All contracts shall be in writing, and the retirement board shall make no payment for a service  
420 rendered prior to the execution of such contract.

421 (a) A contract made in violation of this section shall not be valid, and the retirement board shall  
422 make no payment under such contract. Minor informalities shall not require invalidation of a  
423 contract.

424 (b) A person who causes or conspires with another to cause a contract to be solicited or awarded  
425 in violation of a provision of this section shall forfeit and pay to the appropriate retirement board  
426 a sum of not more than two thousand dollars for each violation. In addition, the person shall pay  
427 double the amount of damages sustained by the retirement board by reason of the violation,  
428 together with the costs of any action. If more than one person participates in the violation, the  
429 damages and costs may be apportioned among them.

430 (c) The commission or the retirement board shall have authority to institute a civil action to  
431 enforce paragraph (b).

432 Section 11. Section 23 of Chapter 32 of the General Laws is hereby amended by striking out subdivision  
433 (4) and inserting in place thereof the following: -

434 (4) If the commission determines that a board of any retirement system has violated or neglected to  
435 comply with any provisions of this chapter, or the rules and regulations promulgated by the Commission,  
436 the Commission may determine that such system should be managed in accordance with orders of said  
437 commission. The commission is hereby authorized to appoint a committee consisting of three members,  
438 two of whom shall be members or designees of the commission and one who shall be a member of a  
439 retirement board other than the board subject to the commission determination chosen by the commission  
440 from a list of three nominees provided by the Massachusetts Association of Contributory Retirement  
441 Systems (MACRS), to oversee any board that is responsible for the administration of any such system.  
442 Based upon the recommendation of said committee the commission shall, direct the board to take or  
443 desist from any action in order to insure that the system is managed with reasonable care, skill, prudence  
444 and diligence. Such direction may include, but is not limited to, the following:-

445 (a) transfer of assets to the PRIT Fund;

446 (b) termination of contracts;

447 (c) approval or denial of retirement benefits;

448 (d) employment or termination of employees; and,

449 (e) conduct a fiduciary audit

450 Any person receiving a notice from the commission as set out above shall not have a right to appeal the  
451 receipt of such notice to the Contributory Retirement Appeal Board. Any person receiving any  
452 communication, either verbal or written, subsequent to the notice as required by this section in connection  
453 with the same matter shall not have a right to appeal the receipt of such communication to the  
454 Contributory Retirement Appeal Board. Any person aggrieved by any action taken, notice made or  
455 determination rendered by the commission in connection with this section shall have a right to appeal to  
456 the superior court, in accord with Section 16(6) of Chapter 32.

457 Section 12. Subdivision (4) of Section 16 of Chapter 32 of the General Laws, as appearing in the 2004  
458 Official Edition, is hereby amended by inserting after the word “fulfilled”, in line 99, the following  
459 words:- and matters subject to review by the superior court as provided for in subdivision (6).

460 Section 13. Section 16 of Chapter 32 of the General laws, as appearing in the 2004 Official Edition, is  
461 hereby amended by adding the following subdivision:-

462 (6) The commission may institute appropriate proceedings in the superior court for enforcement of its  
463 final orders or decisions issued pursuant to subdivision (4) of section 23 of chapter 32. Any party  
464 aggrieved by a final order or decision of the commission pursuant to subdivision (4) of section 23 of  
465 chapter 32 may institute proceedings for judicial review in the superior court within thirty days after  
466 receipt of such order or decision. Any proceedings in the superior court shall, insofar as applicable, be  
467 governed by the provisions of section fourteen of chapter thirty A, and may be instituted in the superior  
468 court for the county (a) where the parties or any of them reside or have their principal place of business  
469 within the commonwealth, or (b) where the commission has its principal place of business, or (c) of  
470 Suffolk. The commencement of such proceedings shall not, unless specifically ordered by the court,  
471 operate as a stay of the commission's order or decision. If the commission, pursuant to the authority  
472 granted by section 24(1) of chapter 32, seeks to compel the observance of or restrain the violation of the  
473 provisions of Sections 1 to 28, inclusive, a party aggrieved by such an action may appeal to the superior  
474 court in accord with the provisions of section 14 of chapter 30A. If an action pursuant to Section 24 (1)  
475 has already been instituted in the superior court, the person's right to review shall flow from the superior  
476 court case which has already begun.

477 Section 14. Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the General Laws, as  
478 appearing in the 2002 Official Edition, is hereby amended by striking out lines 842 through 845 inclusive  
479 and inserting in place thereof the following: -

480 (a) The elected and appointed members of any city, town, county, regional, district, or authority  
481 retirement board upon acceptance of the appropriate legislative body shall receive a stipend provided,  
482 however, that said stipend shall not be less than three thousands dollars per annum nor exceed seven  
483 thousand five hundred dollars per annum; provided further,

484 Section 15. Said subdivision, as so appearing, is hereby further amended in line 853 by striking out the  
485 words “three thousand” and inserting in place thereof the word “seven thousand five hundred”.

486 Section 16. Section 20 of Chapter 32 of the General Laws is hereby amended by adding the following  
487 sub-division:-

488 (7) In order to serve as a member of a retirement board an individual shall comply with the provisions of  
489 this subdivision.

490 Elected or appointed members shall be required to undertake four hours of training annually sponsored by  
491 the commission. The commission shall offer at least four opportunities during the year for board members  
492 to meet this requirement at times and places of convenience throughout the state. The commission may  
493 offer this education or may contract with other parties to provide such training. The training curriculum  
494 shall, at a minimum, include the topics of fiduciary responsibility, ethical conduct, and conflict-of-  
495 interest.

496 Elected or appointed members shall also be required to undertake an additional four hours training  
497 annually as prescribed by the commission provided by the Massachusetts Association of Contributory  
498 Retirement Systems or other local, state, regional and national organizations recognized by the  
499 commission as having expertise in retirement issues of importance to retirement board members or other  
500 entities, on topics acceptable as the commission may from time to time determine. The commission shall  
501 certify such organizations as appropriate for conducting such training upon application to the commission.

502 The commission shall provide retirement boards with a statement of completion of education form on or  
503 before December 31 of each year. The board shall provide the forms to their members. The form shall  
504 state under the pains and penalties of perjury whether or not the retirement board member has undertaken  
505 the combined eight hours of continuing education required by this sub-division. Retirement board  
506 members shall submit the completed form by January 15 of the year following.

507 Any retirement board member who without good cause as determined by the commission has failed to file  
508 a statement of completion of education form with PERAC by January 15 shall be notified by PERAC by  
509 February 15 of the failure to file. The commission will afford the board member 30 days to provide just  
510 cause for why he or she did not file the required form. Failure to provide acceptable justification as  
511 determined by the commission for not filing the form in a timely manner within 30 days shall result in  
512 suspension of voting rights until the form is successfully completed. The commission shall notify the  
513 retirement board of the suspension of voting rights of the board member in question and that board  
514 member shall not be entitled to vote on any matter before the retirement board.

515 Any retirement board member who without good cause after review by the commission has been  
516 determined to have not successfully completed the aforementioned continuing education requirements  
517 shall have his/her board voting rights suspended until he or she has successfully completed the education  
518 requirements of the previous year. The commission will afford the board member 30 days to provide good  
519 cause for why he or she did not complete the required education requirements for the previous year.  
520 Board members shall have 180 days to successfully complete the continuing education requirements for  
521 the previous year.

522 Failure to successfully complete the education requirements shall prohibit a retirement board member  
523 from serving beyond the conclusion of the term in which the failure took place. In the event the non-  
524 complying retirement board member is an ex-officio member his or her term shall cease upon notification  
525 to the retirement board by the commission of that non-compliance.

526 Each retirement board shall notify all prospective board members and board members of the requirement  
527 to complete education requirements at the time of receiving information about seeking election to a  
528 retirement board, or prior to being appointed to a retirement board.

529 The commission shall annually notify board members of the requirement to complete continuing  
530 education.

531 The requirements established by this sub-division shall become effective for calendar year 2007.

532 Section 17. Chapter 150E section 7 is hereby amended by adding the following new subsection (e):

533 Any employer entering into a collective bargaining agreement with an employee organization must  
534 provide a copy of said agreement to the retirement board to which the employees covered by the  
535 agreement are members. All retirement systems must maintain files of all active collective bargaining  
536 agreements which cover the systems members. The retirement board shall review collective bargaining  
537 agreements for compliance with the provisions of chapter 32.

538 Section 18. Chapter 32 section 21 is hereby amended in line 15 by adding the following new sentence  
539 after the word "system":

540 Each board shall maintain copies of all collective bargaining agreements which cover the systems  
541 members and shall make such agreements available to the commission for review at such time as the  
542 commission shall specify.