

**SENATE . . . . . No. 2088**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to pension governance 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  
2 amended by 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  
4 PRIT Fund pursuant to subdivision (8) of section twenty two, in the PRIT Fund by purchasing  
5 shares of said fund, as provided for in the trust agreement adopted by the PRIM Board pursuant  
6 to subdivision (2A) or as 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  
16 established 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  
20 regulations of the commission;

21 (e) in the event that the board has retained a consultant, a copy of the consultant reports  
22 pertaining 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  
25 interest of the retirement system provided, however, that it must so notify the board within ten  
26 days of receipt of completed documents as required by this section.

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

29 (a) certification that, in making the selection, the board has complied with the process  
30 established 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  
35 Official Edition is 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  
37 Laws is hereby amended by adding the following:-

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

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

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

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

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

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

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

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

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

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

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

60 (a) The Commission shall establish and maintain a consolidated list of vendors to whom  
61 contracts shall not be awarded and from whom offers, bids, or proposals shall not be solicited.

62 The list shall show at a minimum the following information: (1) the names of those persons  
63 debarred or suspended in alphabetical order with appropriate cross reference where more than  
64 one name is involved in a single debarment or suspension;

65 (2) the basis of authority for each debarment or suspension;

66 (3) the extent of restrictions imposed;

67 (4) the termination date of each debarment or suspension; and

68 (5) in the case of a suspension, the hearing date, if and when set, for debarment  
69 proceedings.

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

76           (b) Debarment may be imposed for the following causes:

77           (1) conviction or final adjudication by a court or administrative agency of competent  
78 jurisdiction of any of the following offenses:

79           (i) a criminal offense incident to obtaining or attempting to obtain a public or private  
80 contract or subcontract, or in the performance of such contract or subcontract;

81           (ii) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or  
82 destruction of records, receiving stolen property or any other offense indicating a lack of  
83 business integrity or business honesty which seriously and directly affects the vendor's present  
84 responsibility as a public contractor;

85           (iii) a violation of state or federal antitrust laws arising out of the submission of bids or  
86 proposals;

87           (iv) a violation of chapter two hundred and sixty-eight A;

88           (v) a violation of chapter thirty – two-.

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

90 (i) willfully supplying materially false information incident to obtaining or attempting to  
91 obtain or performing any public contract or subcontract;

92 (ii) willful failure to comply with record-keeping and accounting requirements prescribed  
93 by law or regulation;

94 (iii) a record of failure to perform or of unsatisfactory performance in accordance with  
95 the terms of one or more public contracts, provided that such failure to perform or unsatisfactory  
96 performance has occurred within a reasonable period of time preceding the determination to  
97 debar and provided further that such failure to perform or unsatisfactory performance was not  
98 caused by factors beyond the vendor's control;

99 (iv) the submission to the board or the commission of an inaccurate disclosure statement

100 (v); the failure to disclose to the board and the commission any compensation provided to  
101 any person in regards to attempting to obtain or the performance of a public contract or  
102 subcontract, including, but not limited to, compensation provided by third parties retained by the  
103 vendor to any other person;

104 (vi) any other cause affecting the responsibility of a vendor which the commission  
105 determines to be of such a serious and compelling nature as to warrant debarment.

106 (c) No vendor may be suspended unless the commission has first informed the vendor by  
107 written notice of the proposed suspension mailed by registered or certified mail to the vendor's  
108 last known address, except when the commission determines that immediate suspension is  
109 necessary to prevent serious harm to the retirement system, in which case the suspension shall  
110 take effect immediately upon signing by the executive director of an order of suspension, and

111 notice shall be mailed to the vendor at the earliest opportunity. The notice shall inform the  
112 vendor of the reasons for the proposed suspension and shall state that the vendor may within  
113 fourteen days respond in writing and may in such response request a hearing. The commission  
114 may extend the period for response at the request of the vendor. The commission shall determine  
115 whether to impose the suspension or, in the case of an emergency suspension imposed prior to  
116 notice to the vendor, whether to continue the suspension after reviewing the vendor's response, if  
117 any, and making such investigation as the commission determines is necessary and appropriate.  
118 An indictment, or any information or other filing by a public agency charging a criminal offense,  
119 for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence  
120 to support a suspension.

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

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

132 (d) No vendor may be debarred under this section unless the commission has first  
133 informed the vendor by written notice of the proposed debarment mailed by registered or  
134 certified mail to the vendor's last known address. The notice shall inform the vendor of the  
135 reasons for the debarment and shall state that the vendor will be accorded an opportunity for a  
136 hearing if the vendor so requests within fourteen days of receipt of the notice. A hearing  
137 requested under this paragraph shall be conducted by the commission within sixty days of receipt  
138 of the request, unless the commission grants additional time therefore at the request of the  
139 vendor. The hearing shall be conducted according to the rules for the conduct of adjudicatory  
140 hearings established by the commissioner of administration pursuant to chapter thirty A. A  
141 debarment shall not be imposed until (i) fourteen days after receipt by the vendor of notice of the  
142 proposed debarment if no hearing is requested, or (ii) the issuance of a written decision by the  
143 commission which makes specific findings that there is sufficient evidence to support the  
144 debarment and that debarment for the period specified in the decision is required to protect the  
145 integrity of the public contracting process. A vendor shall be notified forthwith of the decision by  
146 registered or certified mail, and of the vendor's right to judicial review in the event that the  
147 decision is adverse to the vendor. If a suspension precedes a debarment, the suspension period  
148 shall be considered in determining the debarment period.

149 (e) A debarment or suspension may include all known affiliates of a vendor. The decision  
150 to include a known affiliate within the scope of a debarment or suspension shall be made on a  
151 case-by-case basis, after giving due regard to all relevant facts and circumstances. The offense or  
152 act of an individual justifying suspension, or the evidence justifying a suspension, may be  
153 imputed to the entity with which the individual is connected when such offense or act occurred in  
154 connection with the individual's performance of duties for or on behalf of the entity or with the



155 knowledge, approval, or acquiescence of the entity or one or more of its principals. The entity's  
156 acceptance of the benefits derived from the conduct shall be evidence of such knowledge,  
157 approval, or acquiescence. The offense or act of an entity justifying debarment, or the evidence  
158 justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee  
159 or other individual associated with the entity who participated in, knew of, or had reason to know  
160 of the entity's act. An entity may not be suspended or debarred except in accordance with the  
161 procedures set forth in this section.

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

169 (g) During the period for which a person has been debarred or suspended, that person  
170 shall not submit or cause to be submitted offers, bids, or proposals to any retirement board, nor  
171 shall any retirement board solicit or consider offers, bids, or proposals from, nor execute, renew,  
172 or extend any contract with, a debarred or suspended vendor, and a vendor shall not contract for  
173 services from a debarred or suspended subcontractor on any contract with a retirement system.

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

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

181           SECTION 6. Chapter 32 of the General Laws is hereby amended by adding the  
182 following section:-

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

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

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

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

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

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

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

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

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

215 (5) the name and address of the donor, and the fair market value, if determinable, of any  
216 gifts aggregating more than one hundred dollars in the calendar year, if the recipient is a member

217 of a retirement board and the source of such gift(s) is a person(s) having a direct interest in a  
218 matter before the retirement board of which the recipient is a member;

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

223 (7) the name and address of any creditor who has forgiven an indebtedness of over one  
224 thousand dollars, and the amount forgiven if the creditor is a person having a direct interest in a  
225 matter before a retirement board; provided, however, that no such information need be reported  
226 if the creditor is a relative within the third degree of consanguinity or affinity of the reporting  
227 person, or the spouse of such a relative; and ,

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

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

232 Failure of a reporting person to file a statement of financial interests within thirty days  
233 after receiving notice in writing from the Commission which states in detail the deficiency and  
234 the penalties for failure to file a statement of financial interests, or the filing of an incomplete  
235 statement of financial interests after receipt of such a notice shall result in the removal of the  
236 reporting person from the board and he or she shall not be permitted to serve on any retirement  
237 board established pursuant to the provisions of this chapter, provided, however, that, in the event  
238 that the reporting person has filed an incomplete statement of financial interests said removal

239 shall be stayed upon the filing of an appeal under sub-division (4) of section 16. In the event the  
240 non-complying member is an ex-officio member his or her appointing authority shall appoint a  
241 different individual to serve on the board or in the event that said member is directly elected by  
242 the people a different individual shall be appointed to serve on the board by the Mayor, County  
243 Commissioners or Board of Selectman as the case may be.

244 SECTION 7. Clause 26th of Section 7 of Chapter 4 of the General Laws is hereby  
245 amended by adding the following sub-clause:-

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

247 SECTION 8. Section 20 of Chapter 32 of the General Laws is hereby amended by  
248 adding the following paragraph:-

249 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration,  
250 financial benefit or consideration of any kind, other than a retirement benefit or the statutory  
251 stipend for serving on the retirement board, from a retirement board or from any person doing  
252 business with a retirement board shall be eligible to serve on a retirement board provided,  
253 however, that an employee of a retirement board may serve on a retirement board other than the  
254 retirement board by which he or she is employed and provided, further, that the provisions of this  
255 paragraph shall apply only to individuals who first become members of a retirement board on or  
256 after January 1, 2010.

257 SECTION 9. Paragraph (b) of Section 19 of Chapter 34B of the General Laws is hereby  
258 amended in line 14 by inserting the following after the word "32":-

259            Provided that no employee, contractor, vendor or person receiving any remuneration,  
260 financial benefit or consideration of any kind, other than a retirement benefit or the statutory  
261 stipend for serving on the retirement board, from a retirement board or from any person doing  
262 business with a retirement board shall be eligible to serve on a retirement board provided,  
263 however, that an employee of a retirement board may serve on a retirement board other than the  
264 retirement board by which he or she is employed and provided, further, that the provisions of this  
265 paragraph shall apply only to individuals who first become members of a retirement board on or  
266 after January 1, 2010.

267            SECTION 10. Chapter 32 of the General Laws is hereby amended by adding the  
268 following section –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

328 (b) The retirement board shall unconditionally accept a proposal without alteration or  
329 correction, except as provided in this paragraph. A bidder may correct, modify, or withdraw a  
330 proposal by written notice received in the office designated in the request for proposals prior to  
331 the time and date set for the proposal opening. After proposal opening, a bidder may not change  
332 the price or any other provision of the proposal in a manner prejudicial to the interests of the  
333 retirement board or fair competition. The retirement board shall waive minor informalities or  
334 allow the bidder to correct them. If a mistake and the intended proposal are clearly evident on the  
335 face of the proposal document, the procurement officer shall correct the mistake to reflect the  
336 intended correct proposal and so notify the bidder in writing, and the bidder may not withdraw  
337 the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the  
338 proposal document but the intended correct proposal is not similarly evident.

339 (c) The retirement board shall solicit proposals through a request for proposals. The  
340 request for proposals shall include:

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

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

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

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

353 (d) The retirement board or its procurement officer shall not open the proposals publicly,  
354 but shall open them in the presence of one or more witnesses at the time specified in the request  
355 for proposals. Notwithstanding the provisions of section seven of chapter four, until the  
356 completion of the evaluations, or until the time for acceptance specified in the request for  
357 proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and  
358 shall not be disclosed to competing offerors. At the opening of proposals the retirement board or  
359 its procurement officer shall prepare a register of proposals which shall include the name of each  
360 offeror and the number of modifications, if any, received. The register of proposals shall be open  
361 for public inspection.

362 (e) The retirement board or its consultant retained pursuant to the provisions of this  
363 chapter shall be responsible for the initial evaluation of the proposals. The retirement board or its  
364 consultant retained pursuant to the provisions of this chapter shall prepare their initial  
365 evaluations based solely on the criteria set forth in the request for proposals. The evaluations  
366 shall specify in writing:

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

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

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

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

375 (f) The retirement board shall determine the most advantageous proposal from a  
376 responsible and responsive offeror taking into consideration price and the evaluation criteria set  
377 forth in the request for proposals. The retirement board shall award the contract by written notice  
378 to the selected offeror within the time for acceptance specified in the request for proposals. The  
379 parties may extend the time for acceptance by mutual agreement. The retirement board may  
380 condition an award on successful negotiation of the revisions specified in the evaluation, and  
381 shall explain in writing the reasons for omitting any such revision from a plan incorporated by  
382 reference in the contract.

383 (g)(1) In the event of a competitive process to select an investment service provider the  
384 request for proposals shall include mandatory contractual terms and conditions to be  
385 incorporated into the contract including provisions stating that the contractor is a fiduciary with  
386 respect to the funds which the contractor invests on behalf of the retirement board, provisions  
387 stating that the contractor shall not be indemnified by the retirement board, provisions requiring  
388 the contractor to annually inform the commission and the board of any arrangements in oral or in  
389 writing, for compensation or other benefit received or expected to be received by the contractor  
390 or a related person from others in connection with the contractors services to the retirement  
391 board or any other client, provisions requiring the contractor to annually disclose to the  
392 commission and the retirement board any compensation, in whatever form, paid or expected to  
393 be paid, directly or indirectly, by the contractor or a related person to others in relation to the  
394 contractors services to the retirement board or any other client, and provisions requiring the  
395 contractor to annually disclose to the commission and the retirement board in writing any  
396 conflict of interest the contractor may have that could reasonably be expected to impair the  
397 contractor's ability to render unbiased and objective services to the retirement board. Other  
398 mandatory contractual terms and conditions shall address investment objectives, brokerage  
399 practices, proxy voting and tender offer exercise procedures, terms of employment and  
400 termination provisions. The retirement board shall make a preliminary determination of the most  
401 advantageous proposal from a responsible and responsive offeror taking into consideration price  
402 and the evaluation criteria set forth in the request for proposals. The retirement board or its duly  
403 designated agent, subject to the approval of the retirement board, may negotiate all terms of the  
404 contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with  
405 such offeror, the retirement board in consultation with its duly designated agent and its

406 consultant retained pursuant to the provisions of this chapter determines that it is in the best  
407 interests of the retirement board, the retirement board in consultation with its consultant retained  
408 pursuant to the provisions of this chapter may determine the proposal which is the next most  
409 advantageous proposal from a responsible and responsive offeror taking into consideration price  
410 and the evaluation criteria set forth in the request for proposals, and may negotiate all terms of  
411 the contract with such offeror. The retirement board shall award the contract to the most  
412 advantageous proposal from a responsible and responsive offeror taking into consideration price,  
413 the evaluated criteria set forth in the request for proposals, and the terms of the negotiated  
414 contract. The retirement board shall award the contract by written notice to the selected offeror  
415 within the time for acceptance specified in the request for proposals. The time for acceptance  
416 may be extended for up to 45 days by mutual agreement between the retirement board and the  
417 responsible and responsive offeror offering the most advantageous proposal as determined by the  
418 retirement board.

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

422           (2) The retirement board may cancel a request for proposals or may reject in whole or in  
423 part any and all proposals when the retirement board determines that cancellation or rejection  
424 serves the best interests of the system. The retirement board shall state in writing the reason for a  
425 cancellation or rejection.

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

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

432 \_\_\_\_\_

433 (Signature of individual submitting bid or proposal)

434 \_\_\_\_\_

435 (Name of business)

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

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

443 \_\_\_\_\_

444 (Signature of individual retirement board member)

445 \_\_\_\_\_

446 (Name of retirement board)

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

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

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

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

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

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

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

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

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

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

482 SECTION 11. Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the  
483 General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out lines  
484 842 through 845 inclusive and inserting in place thereof the following: -

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



489 SECTION 12. Said subdivision, as so appearing, is hereby further amended in line 853  
490 by striking out the words “three thousand” and inserting in place thereof the word “seven  
491 thousand five hundred”.

492 SECTION 13. Section 20 of Chapter 32 of the General Laws is hereby amended by  
493 adding the following sub-division:-

494 (7) During each full term of service retirement board members shall be required to  
495 undertake eighteen hours of training provided, however, that no less than three hours take place  
496 each year and no more than nine hours take place in any single year.

497 Such training shall consist of nine hours sponsored by the commission which shall  
498 include, at a minimum, the topics of fiduciary responsibility, ethical conduct, and conflict-of-  
499 interest, and nine hours of training on topics prescribed by the commission provided by the  
500 Massachusetts Association of Contributory Retirement Systems or other local, state, regional and  
501 national organizations recognized by the commission as having expertise in retirement issues of  
502 importance to retirement board members or other entities, as the commission may from time to  
503 time determine.

504 The commission shall arrange for at least eighteen sessions during each year for  
505 members to complete this requirement. In addition, the commission shall schedule additional  
506 sessions or otherwise make accommodations to insure that members are afforded the maximum  
507 opportunity to complete this requirement.

508 The commission shall provide retirement board with a statement of completion of  
509 education form on or before December 31 of each year. The board shall provide the forms to  
510 their members. The form shall set forth the training as required by this sub-division the member

511 has undertaken during that year. Board members shall submit the completed form to the  
512 commission by January 31 of the year following. The commission shall provide the member with  
513 a summary of his or her status regarding the completion of this requirement by February 1 of  
514 each year.

515 Failure to successfully complete the requirements of this sub-division shall prohibit a  
516 board member from serving beyond the conclusion of the term in which the failure took place.  
517 In the event the non-complying member is an ex officio member or a second member of a board  
518 the appointing authority for the second member shall appoint a different individual to serve on  
519 the board, provided, however, that in the case of the replacement of an ex officio member the  
520 individual be experienced in the field of finance or auditing and provided, further, that in  
521 regional retirement systems non-complying members shall be replaced in the same manner as is  
522 set forth for the selection of said members.

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

526 The commission shall annually notify board members of the requirement to complete  
527 continuing education.

528 The requirements established by this sub-division shall become effective for calendar  
529 year 2010.

530 SECTION 14. Chapter 150E section 7 is hereby amended by adding the following  
531 new subsection (e):

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

538           SECTION 15. Chapter 32 section 21 is hereby amended in line 15 by adding the  
539 following new sentence after the word “system”:

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