

HOUSE No.

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: |
|-------------------------|-------------------|
| William N. Brownsberger | 24th Middlesex |
| Jay R. Kaufman | 15th Middlesex |
| Donnelly, Kenneth (SEN) | Fourth Middlesex |

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

The Commonwealth of Massachusetts

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.

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

4 -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (c) No vendor may be suspended unless the commission has first informed the vendor
116 by written notice of the proposed suspension mailed by registered or certified mail to
117 the vendor's last known address, except when the commission determines that

118 immediate suspension is necessary to prevent serious harm to the retirement system, in
119 which case the suspension shall take effect immediately upon signing by the executive
120 director of an order of suspension, and notice shall be mailed to the vendor at the
121 earliest opportunity. The notice shall inform the vendor of the reasons for the proposed
122 suspension and shall state that the vendor may within fourteen days respond in writing
123 and may in such response request a hearing. The commission may extend the period for
124 response at the request of the vendor. The commission shall determine whether to
125 impose the suspension or, in the case of an emergency suspension imposed prior to
126 notice to the vendor, whether to continue the suspension after reviewing the vendor's
127 response, if any, and making such investigation as the commission determines is
128 necessary and appropriate. An indictment, or any information or other filing by a public
129 agency charging a criminal offense, for any of the offenses listed in paragraph (1) of
130 subsection (c) shall constitute adequate evidence to support a suspension.

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

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

142 (d) No vendor may be debarred under this section unless the commission has first
143 informed the vendor by written notice of the proposed debarment mailed by registered
144 or certified mail to the vendor's last known address. The notice shall inform the vendor
145 of the reasons for the debarment and shall state that the vendor will be accorded an
146 opportunity for a hearing if the vendor so requests within fourteen days of receipt of
147 the notice. A hearing requested under this paragraph shall be conducted by the
148 commission within sixty days of receipt of the request, unless the commission grants
149 additional time therefore at the request of the vendor. The hearing shall be conducted
150 according to the rules for the conduct of adjudicatory hearings established by the

151 commissioner of administration pursuant to chapter thirty A. A debarment shall not be
152 imposed until (i) fourteen days after receipt by the vendor of notice of the proposed
153 debarment if no hearing is requested, or (ii) the issuance of a written decision by the
154 commission which makes specific findings that there is sufficient evidence to support
155 the debarment and that debarment for the period specified in the decision is required
156 to protect the integrity of the public contracting process. A vendor shall be notified
157 forthwith of the decision by registered or certified mail, and of the vendor's right to
158 judicial review in the event that the decision is adverse to the vendor. If a suspension
159 precedes a debarment, the suspension period shall be considered in determining the
160 debarment period.

161 (e) A debarment or suspension may include all known affiliates of a vendor. The decision
162 to include a known affiliate within the scope of a debarment or suspension shall be
163 made on a case-by-case basis, after giving due regard to all relevant facts and
164 circumstances. The offense or act of an individual justifying suspension, or the evidence
165 justifying a suspension, may be imputed to the entity with which the individual is
166 connected when such offense or act occurred in connection with the individual's
167 performance of duties for or on behalf of the entity or with the knowledge, approval, or
168 acquiescence of the entity or one or more of its principals. The entity's acceptance of
169 the benefits derived from the conduct shall be evidence of such knowledge, approval, or
170 acquiescence. The offense or act of an entity justifying debarment, or the evidence
171 justifying a suspension, may be imputed to any officer, director, shareholder, partner,
172 employee or other individual associated with the entity who participated in, knew of, or
173 had reason to know of the entity's act. An entity may not be suspended or debarred
174 except in accordance with the procedures set forth in this section.

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

182 (g) During the period for which a person has been debarred or suspended, that person
183 shall not submit or cause to be submitted offers, bids, or proposals to any retirement

184 board, nor shall any retirement board solicit or consider offers, bids, or proposals from,
185 nor execute, renew, or extend any contract with, a debarred or suspended vendor, and
186 a vendor shall not contract for services from a debarred or suspended subcontractor on
187 any contract with a retirement system.

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

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

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

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

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

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

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

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

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

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

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

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

235 (5) the name and address of the donor, and the fair market value, if
236 determinable, of any gifts aggregating more than one hundred dollars in the
237 calendar year, if the recipient is a member of a retirement board and the source
238 of such gift(s) is a person(s) having a direct interest in a matter before the
239 retirement board of which the recipient is a member;

240 (6) the name and address of the source, and the fair market value, of any
241 honoraria aggregating more than one hundred dollars if the recipient is a

242 member of a retirement board and the source of such honoraria is a person
243 having a direct interest in a matter before a retirement board;

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

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

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

254 Failure of a reporting person to file a statement of financial interests within thirty days
255 after receiving notice in writing from the Commission which states in detail the
256 deficiency and the penalties for failure to file a statement of financial interests, or the
257 filing of an incomplete statement of financial interests after receipt of such a notice shall
258 result in the removal of the reporting person from the board and he or she shall not be
259 permitted to serve on any retirement board established pursuant to the provisions of
260 this chapter, provided, however, that, in the event that the reporting person has filed an
261 incomplete statement of financial interests said removal shall be stayed upon the filing
262 of an appeal under sub-division (4) of section 16. In the event the non-complying
263 member is an ex-officio member his or her appointing authority shall appoint a different
264 individual to serve on the board or in the event that said member is directly elected by
265 the people a different individual shall be appointed to serve on the board by the Mayor,
266 County Commissioners or Board of Selectman as the case may be.

267 **Section 7.** Clause 26th of Section 7 of Chapter 4 of the General Laws is hereby amended
268 by adding the following sub-clause:-

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

270 **Section 8.** Section 20 of Chapter 32 of the General Laws is hereby amended by adding
271 the following paragraph:-

272 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration,
273 financial benefit or consideration of any kind, other than a retirement benefit or the
274 statutory stipend for serving on the retirement board, from a retirement board or from
275 any person doing business with a retirement board shall be eligible to serve on a
276 retirement board provided, however, that an employee of a retirement board may serve
277 on a retirement board other than the retirement board by which he or she is employed
278 and provided, further, that the provisions of this paragraph shall apply only to
279 individuals who first become members of a retirement board on or after January 1,
280 2008.

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

283 Provided that no employee, contractor, vendor or person receiving any remuneration,
284 financial benefit or consideration of any kind, other than a retirement benefit or the
285 statutory stipend for serving on the retirement board, from a retirement board or from
286 any person doing business with a retirement board shall be eligible to serve on a
287 retirement board provided, however, that an employee of a retirement board may serve
288 on a retirement board other than the retirement board by which he or she is employed
289 and provided, further, that the provisions of this paragraph shall apply only to
290 individuals who first become members of a retirement board on or after January 1,
291 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

360 (b) The retirement board shall unconditionally accept a proposal without alteration or
361 correction, except as provided in this paragraph. A bidder may correct, modify, or
362 withdraw a proposal by written notice received in the office designated in the request
363 for proposals prior to the time and date set for the proposal opening. After proposal
364 opening, a bidder may not change the price or any other provision of the proposal in a
365 manner prejudicial to the interests of the retirement board or fair competition. The
366 retirement board shall waive minor informalities or allow the bidder to correct them. If
367 a mistake and the intended proposal are clearly evident on the face of the proposal
368 document, the procurement officer shall correct the mistake to reflect the intended
369 correct proposal and so notify the bidder in writing, and the bidder may not withdraw
370 the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the
371 face of the proposal document but the intended correct proposal is not similarly
372 evident.

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

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

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

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

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

387 (d) The retirement board or its procurement officer shall not open the proposals
388 publicly, but shall open them in the presence of one or more witnesses at the time
389 specified in the request for proposals. Notwithstanding the provisions of section seven
390 of chapter four, until the completion of the evaluations, or until the time for acceptance
391 specified in the request for proposals, whichever occurs earlier, the contents of the
392 proposals shall remain confidential and shall not be disclosed to competing offerors. At
393 the opening of proposals the retirement board or its procurement officer shall prepare a
394 register of proposals which shall include the name of each offeror and the number of
395 modifications, if any, received. The register of proposals shall be open for public
396 inspection.

397 (e) The retirement board or its consultant retained pursuant to the provisions of this
398 chapter shall be responsible for the initial evaluation of the proposals. The retirement
399 board or its consultant retained pursuant to the provisions of this chapter shall prepare
400 their initial evaluations based solely on the criteria set forth in the request for proposals.
401 The evaluations shall specify in writing:

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

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

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

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

413 (f) The retirement board shall determine the most advantageous proposal from a
414 responsible and responsive offeror taking into consideration price and the evaluation
415 criteria set forth in the request for proposals. The retirement board shall award the
416 contract by written notice to the selected offeror within the time for acceptance
417 specified in the request for proposals. The parties may extend the time for acceptance
418 by mutual agreement. The retirement board may condition an award on successful
419 negotiation of the revisions specified in the evaluation, and shall explain in writing the
420 reasons for omitting any such revision from a plan incorporated by reference in the
421 contract.

422 (g)(1) In the event of a competitive process to select an investment service provider the
423 request for proposals shall include mandatory contractual terms and conditions to be
424 incorporated into the contract including provisions stating that the contractor is a
425 fiduciary with respect to the funds which the contractor invests on behalf of the
426 retirement board, provisions stating that the contractor shall not be indemnified by the
427 retirement board, provisions requiring the contractor to annually inform the
428 commission and the board of any arrangements in oral or in writing, for compensation
429 or other benefit received or expected to be received by the contractor or a related
430 person from others in connection with the contractors services to the retirement board
431 or any other client, provisions requiring the contractor to annually disclose to the
432 commission and the retirement board any compensation, in whatever form, paid or
433 expected to be paid, directly or indirectly, by the contractor or a related person to
434 others in relation to the contractors services to the retirement board or any other client,
435 and provisions requiring the contractor to annually disclose to the commission and the
436 retirement board in writing any conflict of interest the contractor may have that could
437 reasonably be expected to impair the contractor's ability to render unbiased and
438 objective services to the retirement board. Other mandatory contractual terms and
439 conditions shall address investment objectives, brokerage practices, proxy voting and
440 tender offer exercise procedures, terms of employment and termination provisions.
441 The retirement board shall make a preliminary determination of the most advantageous
442 proposal from a responsible and responsive offeror taking into consideration price and
443 the evaluation criteria set forth in the request for proposals. The retirement board or its
444 duly designated agent, subject to the approval of the retirement board, may negotiate
445 all terms of the contract not deemed mandatory or non-negotiable with such offeror. If,
446 after negotiation with such offeror, the retirement board in consultation with its duly

447 designated agent and its consultant retained pursuant to the provisions of this chapter
448 determines that it is in the best interests of the retirement board, the retirement board
449 in consultation with its consultant retained pursuant to the provisions of this chapter
450 may determine the proposal which is the next most advantageous proposal from a
451 responsible and responsive offeror taking into consideration price and the evaluation
452 criteria set forth in the request for proposals, and may negotiate all terms of the
453 contract with such offeror. The retirement board shall award the contract to the most
454 advantageous proposal from a responsible and responsive offeror taking into
455 consideration price, the evaluated criteria set forth in the request for proposals, and the
456 terms of the negotiated contract. The retirement board shall award the contract by
457 written notice to the selected offeror within the time for acceptance specified in the
458 request for proposals. The time for acceptance may be extended for up to 45 days by
459 mutual agreement between the retirement board and the responsible and responsive
460 offeror offering the most advantageous proposal as determined by the retirement
461 board.

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

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

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

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

476

477 (Signature of individual submitting bid or proposal)
478 _____

479 (Name of business)

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

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

487 _____

488 (Signature of individual retirement board member)
489 _____

490 (Name of retirement board)

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

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

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

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

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

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

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

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

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

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

528 **Section 11.** Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the General
529 Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out lines
530 842 through 845 inclusive and inserting in place thereof the following: -

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

536 **Section 12.** Said subdivision, as so appearing, is hereby further amended in line 853 by
537 striking out the words “three thousand” and inserting in place thereof the word “seven
538 thousand five hundred”.

539 **Section 13.** Section 20 of Chapter 32 of the General Laws is hereby amended by adding
540 the following sub-division:-

541

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

545

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

553

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

558

559 The commission shall provide retirement board with a statement of completion of
560 education form on or before December 31 of each year. The board shall provide the
561 forms to their members. The form shall set forth the training as required by this sub-
562 division the member has undertaken during that year. Board members shall submit the
563 completed form to the commission by January 31 of the year following. The commission
564 shall provide the member with a summary of his or her status regarding the completion
565 of this requirement by February 1 of each year.

566

567 Failure to successfully complete the requirements of this sub-division shall prohibit a
568 board member from serving beyond the conclusion of the term in which the failure took
569 place. In the event the non-complying member is an ex-officio member his or her
570 appointing authority shall appoint a different individual to serve on the board or in the
571 event that said member is directly elected by the people a different individual shall be
572 appointed to serve on the board by the Mayor, County Commissioners or Board of
573 Selectman as the case may be.

574

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

579

580 The commission shall annually notify board members of the requirement to complete
581 continuing education.

582

583 The requirements established by this sub-division shall become effective for calendar
584 year 2008.

585 **Section 14.** Chapter 150E section 7 is hereby amended by adding the following new
586 subsection (e):

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

593 **Section 15.** Chapter 32 section 21 is hereby amended in line 15 by adding the following
594 new sentence after the word “system”:

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