

**HOUSE . . . . . No. 01617**

---

The Commonwealth of Massachusetts

PRESENTED BY:

*Jay 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 governance reform..

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Jay Kaufman*

*15th Middlesex*

*Thomas P. Conroy*

*13th Middlesex*

*William N. Brownsberger*

*24th Middlesex*

# HOUSE . . . . . No. 01617

By Mr. Jay Kaufman of Lexington, petition (accompanied by bill, House, No. 01617) of Thomas P. Conroy and others relative to the investment of public pension funds. Joint Committee on Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 2485 OF 2009-2010.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the Year Two Thousand Eleven**  
\_\_\_\_\_

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 PRIT Fund
- 4 pursuant to subdivision (8) of section twenty two, in the PRIT Fund by purchasing shares of said
- 5 fund, as provided for in the trust agreement adopted by the PRIM Board pursuant to subdivision
- 6 (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 established  
16 in section 23A;

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

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

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

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

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

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

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

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

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

34 SECTION 2. Section 50 of Chapter 7 of the General Laws as appearing in the 2004 Official  
35 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 Laws is  
37 hereby amended by adding the following:-

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

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

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

44 "Affiliates", entities which are affiliates of each other when either directly or indirectly one  
45 concern or individual controls or has the power to control another, or when a third party controls  
46 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 a  
50 reasonable, specified period of time commensurate with the seriousness of the offense.

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

53 "Retirement board", a board established pursuant to the provisions of chapter 32 , the provisions  
54 of chapter 34B or the Massachusetts water resources authority retirement board, excluding the  
55 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 contract  
59 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:

63 (1) the names of those persons debarred or suspended in alphabetical order with appropriate  
64 cross reference where more than 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 proceedings.

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

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

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

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

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

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

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

86 (v) a violation of chapter thirty – two

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

173 Each member of a retirement board established pursuant to the provisions of this chapter shall  
174 upon the commencement of their term file with the commission a statement acknowledging that

175 they are aware of and will comply with the standards set forth in chapter 268A of the general  
176 laws, the provisions of this chapter and the provisions of regulations promulgated pursuant to  
177 this chapter.

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

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

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

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

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

193 (e) Reporting persons shall disclose, to the best of their knowledge, the following information for  
194 the preceding calendar year, or as of the last day of said year with respect to the information  
195 required by clauses (2), (3) and (6) below; such persons shall also disclose the same information

196 with respect to their immediate family provided, however, that no amount need be given for such  
197 information with regard to the reporting person's immediate family:

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

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

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

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

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

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

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

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

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

228 Failure of a reporting person to file a statement of financial interests within thirty days after  
229 receiving notice in writing from the Commission which states in detail the deficiency and the  
230 penalties for failure to file a statement of financial interests, or the filing of an incomplete  
231 statement of financial interests after receipt of such a notice shall result in the removal of the  
232 reporting person from the board and he or she shall not be permitted to serve on any retirement  
233 board established pursuant to the provisions of this chapter, provided, however, that, in the event  
234 that the reporting person has filed an incomplete statement of financial interests said removal  
235 shall be stayed upon the filing of an appeal under sub-division (4) of section 16. In the event the  
236 non-complying member is an ex-officio member his or her appointing authority shall appoint a  
237 different individual to serve on the board or in the event that said member is directly elected by

238 the people a different individual shall be appointed to serve on the board by the Mayor, County  
239 Commissioners or Board of Selectman as the case may be.

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

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

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

245 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration, financial  
246 benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for  
247 serving on the retirement board, from a retirement board or from any person doing business with  
248 a retirement board shall be eligible to serve on a retirement board provided, however, that an  
249 employee of a retirement board may serve on a retirement board other than the retirement board  
250 by which he or she is employed and provided, further, that the provisions of this paragraph shall  
251 apply only to individuals who first become members of a retirement board on or after January 1,  
252 2012.

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

255 Provided that no employee, contractor, vendor or person receiving any remuneration, financial  
256 benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for  
257 serving on the retirement board, from a retirement board or from any person doing business with  
258 a retirement board shall be eligible to serve on a retirement board provided, however, that an

259 employee of a retirement board may serve on a retirement board other than the retirement board  
260 by which he or she is employed and provided, further, that the provisions of this paragraph shall  
261 apply only to individuals who first become members of a retirement board on or after January 1,  
262 2012.

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

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

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

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

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

272 "Retirement board", a board established under the provisions of this chapter, the provisions of  
273 chapter thirty – four B or the Massachusetts water resources authority retirement board excluding  
274 the pension reserves investment management board.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

355 (e) The retirement board or its consultant retained pursuant to the provisions of this chapter shall  
356 be responsible for the initial evaluation of the proposals. The retirement board or its consultant  
357 retained pursuant to the provisions of this chapter shall prepare their initial evaluations based  
358 solely on the criteria set forth in the request for proposals. The evaluations shall specify in  
359 writing:

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

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

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

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

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

376 (g)(1) In the event of a competitive process to select an investment service provider the request  
377 for proposals shall include mandatory contractual terms and conditions to be incorporated into  
378 the contract including provisions stating that the contractor is a fiduciary with respect to the  
379 funds which the contractor invests on behalf of the retirement board, provisions stating that the  
380 contractor shall not be indemnified by the retirement board, provisions requiring the contractor to  
381 annually inform the commission and the board of any arrangements in oral or in writing, for  
382 compensation or other benefit received or expected to be received by the contractor or a related  
383 person from others in connection with the contractors services to the retirement board or any  
384 other client, provisions requiring the contractor to annually disclose to the commission and the

385 retirement board any compensation, in whatever form, paid or expected to be paid, directly or  
386 indirectly, by the contractor or a related person to others in relation to the contractors services to  
387 the retirement board or any other client, and provisions requiring the contractor to annually  
388 disclose to the commission and the retirement board in writing any conflict of interest the  
389 contractor may have that could reasonably be expected to impair the contractor's ability to render  
390 unbiased and objective services to the retirement board. Other mandatory contractual terms and  
391 conditions shall address investment objectives, brokerage practices, proxy voting and tender  
392 offer exercise procedures, terms of employment and termination provisions. The retirement  
393 board shall make a preliminary determination of the most advantageous proposal from a  
394 responsible and responsive offeror taking into consideration price and the evaluation criteria set  
395 forth in the request for proposals. The retirement board or its duly designated agent, subject to  
396 the approval of the retirement board, may negotiate all terms of the contract not deemed  
397 mandatory or non-negotiable with such offeror. If, after negotiation with such offeror, the  
398 retirement board in consultation with its duly designated agent and its consultant retained  
399 pursuant to the provisions of this chapter determines that it is in the best interests of the  
400 retirement board, the retirement board in consultation with its consultant retained pursuant to the  
401 provisions of this chapter may determine the proposal which is the next most advantageous  
402 proposal from a responsible and responsive offeror taking into consideration price and the  
403 evaluation criteria set forth in the request for proposals, and may negotiate all terms of the  
404 contract with such offeror. The retirement board shall award the contract to the most  
405 advantageous proposal from a responsible and responsive offeror taking into consideration price,  
406 the evaluated criteria set forth in the request for proposals, and the terms of the negotiated  
407 contract. The retirement board shall award the contract by written notice to the selected offeror

408 within the time for acceptance specified in the request for proposals. The time for acceptance  
409 may be extended for up to 45 days by mutual agreement between the retirement board and the  
410 responsible and responsive offeror offering the most advantageous proposal as determined by the  
411 retirement board.

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

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

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

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

425

426 (Signature of individual submitting bid or proposal)

427

428 (Name of business)

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

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

436

437 (Signature of individual retirement board member)

438

439 (Name of retirement board)

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

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

447 (a) A retirement board shall not award a contract for a term exceeding five years, including any  
448 renewal, extension, or option provided, however, that a retirement board may participate in a

449 limited partnership, trust or other entity with a term for a period longer than five years as part of  
450 an investment of system assets.

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

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

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

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

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

467 (b) A person who causes or conspires with another to cause a contract to be solicited or awarded  
468 in violation of a provision of this section shall forfeit and pay to the appropriate retirement board  
469 a sum of not more than two thousand dollars for each violation. In addition, the person shall pay



470 double the amount of damages sustained by the retirement board by reason of the violation,  
471 together with the costs of any action. If more than one person participates in the violation, the  
472 damages and costs may be apportioned among them.

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

475 SECTION 11. Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the General Laws,  
476 as appearing in the 2002 Official Edition, is hereby amended by striking out lines 842 through  
477 845 inclusive and inserting in place thereof the following: -

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

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

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

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

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

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

501 The commission shall provide retirement board with a statement of completion of education  
502 form on or before December 31 of each year. The board shall provide the forms to their  
503 members. The form shall set forth the training as required by this sub-division the member has  
504 undertaken during that year. Board members shall submit the completed form to the commission  
505 by January 31 of the year following. The commission shall provide the member with a summary  
506 of his or her status regarding the completion of this requirement by March 1 of each year.

507 Failure to successfully complete the requirements of this sub-division shall prohibit a board  
508 member from serving beyond the conclusion of the term in which the failure took place. In the  
509 event the non-complying member is an ex officio member or a second member of a board the  
510 appointing authority for the second member shall appoint a different individual to serve on the  
511 board, provided, however, that in the case of the replacement of an ex officio member the

512 individual be experienced in the field of finance or auditing and provided, further, that in  
513 regional retirement systems non-complying members shall be replaced in the same manner as is  
514 set forth for the selection of said members.

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

518 The commission shall annually notify board members of the requirement to complete continuing  
519 education.

520 The requirements established by this sub-division shall become effective for calendar year 2012.

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

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

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

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