



Taunton Board of Retirement

104 Dean Street
Suite 203
Taunton, MA 02780
phone 508.821.1052
fax 508.821.1063
www.tauntonretirement.com

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Retirement Newsletter

City of Taunton Contributory Retirement System

FALL 2017 EDITION



Technology to Enhance Pension Benefit Administration

by Paul J. Slivinski, Executive Director

In early 2017, the retirement system began a transition from pension software created by Tyler Technologies to a new program by Pension Technology Group (PTG). Needless to say, it is always a challenge to switch over the information from one system to another and a lot of time and effort goes into ensuring the data is accurate and that the programs function in a way that helps us administer the plan efficiently. PTG also has our programs backed up continuously and stored offsite in a safe secure environment in at least two (2) alternate geographical locations. This is important for disaster recovery etc.

So far, the retirement office has been using the new programs for about 9 months. While there is always a learning curve, everything seems to be going well. It is our hope that we can eventually utilize some of the features such as having the ability to email all members about important events and updates.

In the not too distant future, we hope to be able to implement a member portal that will allow members to remotely log in to your account to see your information, run retirement calculation estimates, check your beneficiary, and service etc.

The third and final phase of PTG's software will involve electronic imaging of all our files to eliminate paper and allow for more efficient processing of benefits such as disability retirements.

While technology is great, it can never replace the personalized service we will continue to provide to our members and retirees. Feel free to contact our office if you need any information regarding your retirement benefits. We are here to serve you!



Retired Public Safety Officers Health Insurance Tax Break

by Dennis M. Smith, Elected Board Member

The Pension Protection Act of 2006 (PPA) amended Internal Revenue Service Code § 402 and allows “eligible retired public safety officers” to exclude from federal gross income up to \$3,000 of their payments for health insurance premiums. An eligible retiree is permitted only to have one \$3,000 exclusion per year, even if they are receiving benefits from more than one retirement plan. The amount excluded from one’s income cannot also be used to claim a medical expense deduction.

Police officers and Firefighters are defined by the PPA as “public safety officers.”

To qualify, a police officer or firefighter must have separated from employment with the City of Taunton having attained normal retirement age or separated due to disability. *(Note: Survivors do not qualify for this benefit.)*

The Retirement Board has no mandated role to implement the exclusion and recommends that retirees with questions should contact their personal tax advisor for individualized advice about the exclusion.

The Retirement Board will notify new police and firefighters in their first tax year of this provision as a reminder. It is also recommended that you save your paystub from December that contains all the year-to-date information including total amount of health insurance premiums paid for the calendar year. If you lose your stub, you can always contact the retirement office for this information.



Governmental Accounting Standards Board (GASB) 67 & 68

by Ann Marie Hebert, Chairperson/City Auditor



The Governmental Accounting Standards Board (GASB) requires the disclosure of pension related liabilities for public employer financial statements in accordance with Statements 67 and 68. These statements, which amend GASB Statements No. 25 and No. 27, must be adhered to by any public employee retirement system that follows Generally Accepted Accounting Principles (GAAP).

These disclosures are intended to establish a reporting framework that distinguishes between:

- Current financial information about plan assets and financial activities,
- Actuarially determined information from a long-term perspective,
- The funded status of the plan, and
- Progress being made in accumulating sufficient assets to pay benefits when due.

The retirement system is considered a cost-sharing multiple-employer pension plan since pension obligations exist for employees of more than one employer and plan assets can be used to pay the benefits of the employees of any employer.

A report must be done annually and contain important information such as contributions, benefit payments, expenses, investment income, the system’s net position, assets and liabilities which is used by various entities to assess the viability of the retirement system.

Analysis of Legal Cases Affecting Retirement Law

by Attorney Michael Sacco, Attorney to the Retirement Board



A recent pension forfeiture case involving another former Speaker of the House of Representatives clearly defines how the statute applies and when it can result in a pension forfeiture. Crime does not pay!

State Board of Retirement v. Finneran, **476 Mass. 714 (2017)**

Former Speaker of the House Thomas Finneran was first elected to the House of Representatives in 1978, as the representative of the Twelfth Suffolk District. Thereafter, he was reelected every two years and concurrently served as Speaker of the House from 1996 until his resignation in 2004. In 2001, Finneran played a key role in shepherding the Commonwealth through the redistricting process pursuant to the 2000 decennial United States census. The Legislature bore the responsibility of revising the Commonwealth's legislative districts to account for the change in population reflected in the census. Toward that end, the Legislature established a joint committee (committee) comprised of members of the Senate and House of Representatives to put together a redistricting plan. Finneran, as Speaker, appointed the House members of the committee. He also took part in the planning process and was consulted in regard to "virtually all" of the difficult decisions concerning the committee's redistricting plan. One week before the plan was released to the full House, Finneran convened and attended a meeting concerning the redistricting plan. At that meeting, he reviewed the proposed plan in detail and suggested several changes to it that pertained to his own district, at least some of which became part of the final redistricting plan. In the days leading up to the release of the plan, Finneran met with several of his fellow House members and explained to them how it would affect their districts. Shortly after the joint committee released the redistricting plan to the full House, then Acting Governor Jane Swift signed the redistricting act, enacting the plan into law on November 8, 2001. The redistricting act, among other things, increased the proportion of eligible white voters in Finneran's House district.

In June 2002, a group of African-American and Latino voters filed a lawsuit in the United States District Court

for the District of Massachusetts against Finneran, then Secretary of the Commonwealth William Galvin, and Acting Governor Swift, challenging the redistricting act as it applied to House districts in the Boston area. They contended that the House districts were redrawn with the purpose of limiting the voting power of African-American and Latino voters, in violation of the equal protection clause of the Fourteenth and Fifteenth Amendments to the United States Constitution, and that the redistricting act had a discriminatory effect against such voters in violation of the Voting Rights Act, 42 U.S.C. § 1973(b). In particular, they argued that Finneran's Twelfth Suffolk District was redrawn to decrease the number of minority voters in the district and "super-pack" the neighboring Sixth Suffolk District with African-American, Latino, and other minority voters. In May 2003, the plaintiffs filed an amended complaint naming only Secretary Galvin as a defendant. The case was tried before a three-judge panel appointed by the Chief Judge of the United States Court of Appeals for the First Circuit.

Finneran was deposed during the course of the lawsuit, and testified voluntarily on behalf of the defense in November 2003. The plaintiffs cross-examined Finneran on, among other things, the role he played in relation to the formation of the redistricting act and, in particular, any effort he had undertaken or role he had had in facilitating the changes made to his House district. In his testimony, Finneran conceded that he had engaged in communications with the House members on the redistricting committee, but denied any substantive knowledge of the redistricting plan prior to its publication to the full House. When asked whether he had reviewed "any of the redistricting plans as the process proceeded," Finneran responded, "Not as the process proceeded. No sir." Finneran subsequently falsely testified that he first saw the redistricting plan after it was released to the full House.

In February 2004, the Federal District Court panel ruled for the plaintiffs on the ground that the redistricting act had resulted in a discriminatory impact on African-American voters, in violation of the Voting Rights Act. Black Political Task Force v.

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Galvin, 300 F. Sapp. 2d 291, 294 (D. Mass. 2004). The panel also stated in a footnote that “[a]lthough Speaker Finneran denied any involvement in the redistricting process, the circumstantial evidence strongly suggests the opposite conclusion.” *Id.* at 295 n.3. One year later, in June 2005, a Federal grand jury indicted Finneran on three counts of perjury and one count of obstruction of justice in relation to his false deposition testimony. On January 5, 2007, Finneran pleaded guilty to obstruction of justice, in violation of 18 U.S.C. § 1503, and received a sentence of eighteen months of probation and a \$25,000 fine.

In January 2007, the State Board of Retirement (“Board”) ceased payments of Finneran’s pension on the ground of his conviction, pursuant to G. L. c. 32, § 15(4). Following a hearing in April 2012, the hearing officer concluded that Finneran’s pension is forfeit under G. L. c. 32, § 15(4), because he had “been convicted of a criminal offense involving violation of the laws applicable to his office or position.” The hearing officer’s conclusion rested on three primary grounds: (1) Finneran had testified in his official capacity; (2) the “subject matter of his testimony was . . . directly tied to his official duties;” and (3) “Finneran’s duties as a legislator and the mandate of his oath [to uphold the Constitution of the United States and the Constitution of the Commonwealth] . . . gave him a heightened obligation to be forthcoming with the Court” given that the case concerned the right to vote. The Board subsequently voted to accept the hearing officer’s decision.

Finneran appealed to the Boston Municipal Court under G. L. c. 32, § 16(3). A Boston Municipal Court judge reversed the Board’s decision, concluding that Finneran’s conviction does not bear “a direct factual link to his position as a House Member and/or Speaker” and that “there is no substantial evidence to support the [b]oard’s conclusion that Finneran’s conviction violated a core function of his position as a House Member and/or Speaker because there is no evidence in the record of any code, rule or law applicable to Finneran’s public position that connects his conviction with his office.” The board filed a complaint in the nature of certiorari in the county court, pursuant to G. L. c. 249, § 4, asserting that the Boston Municipal Court judge had committed an error of law in ruling that there is no “direct link between the criminal offense Finneran committed . . . and his official duties as a Member and Speaker of the Massachusetts House of Representatives.” A

single justice reserved and reported the matter to the Supreme Judicial Court (“SJC”).

The SJC reversed the Boston Municipal Court’s decision and reinstated the Board’s revocation of Finneran’s pension. The SJC discussed the two ways in which a pension may be forfeited: there must be either a factual link or a legal link between the public employees’ position and the criminal conviction for a pension forfeiture to occur. In cases involving factual links, a public employee’s pension is subject to forfeiture under Section 15(4) only where there is a direct factual connection between the public employee’s crime and position. See Gaffney v. Contributory Retirement Appeal Bd., 423 Mass. 1, 4-5 (1996) (superintendent of municipal water and sewer department who stole money from town was subject to pension forfeiture); Durkin v. Boston Retirement Bd., 83 Mass. App. Ct. 116, 116-117, 119 (2013) (police officer who used department-issued firearm to shoot fellow officer while off duty was subject to pension forfeiture); Maher v. Justices of the Quincy Div. of the Dist. Court Dept., 67 Mass. App. Ct. 612, 616-617 (2006) (city employee who broke into city hall and stole documents from his personnel file was subject to pension forfeiture). Contrast Garney v. Massachusetts Teachers’ Retirement Sys., 469 Mass. 384, 385-386, 389-391 (2014) (no forfeiture where teacher purchased and stored child pornography on home computer because no connection to either his students or school property); Retirement Bd. of Maynard v. Tyler, 83 Mass. App. Ct. 109, 109, 112-113 (2013) (no forfeiture where fire fighter sexually abused children because acts occurred off duty outside fire house and fire fighter did not use “his position, uniform, or equipment for the purposes of his indecent acts”); Herrick v. Essex Regional Retirement Bd., 77 Mass. App. Ct. 645, 646-647, 654-655 (2010) (no forfeiture where housing authority custodian committed indecent assault and battery on daughter because offense not committed on housing authority property nor against any residents there, and did not bear other connection to custodian’s position)

The other line of cases, involving direct legal links, mandates forfeiture under § 15(4) when a public employee commits a crime directly implicating a statute that is specifically applicable to the employee’s position. See Retirement Bd. of Somerville v. Buonomo, 467 Mass. 662, 664-666, 670-671 (2014) (pension forfeiture where register of probate embezzled funds in violation of Code of Professional Responsibility for Clerks of Courts);

State Bd. of Retirement v. Bulger, 446 Mass. 169, 177-180 (2006)(same with respect to clerk-magistrate who committed perjury and obstruction of justice). Contrast Garney, 469 Mass. at 393 (“Criminal conduct that is merely inconsistent with a concept of special public trust placed in the position or defiant of a general professional norm applicable to the position, but not violative of a fundamental precept of the position embodied in a law applicable to it . . . is insufficient to justify forfeiture under G. L. c. 32, § 15 [4]”). The requisite direct legal link is shown where the crime committed is “contrary to a central function of the position as articulated in applicable laws.” Id. at 391.

The SJC found that Finneran’s conduct “falls squarely within the first category, requiring forfeiture where there is a direct factual link between the public employee’s position and the offense. Finneran’s false testimony concerning his knowledge of and participation in the redistricting planning process is in at least two respects directly linked as a factual matter to his position as Speaker of the House. Finneran’s false testimony directly concerns and relates to his work on the redistricting plan as Speaker of the House. Unlike those cited cases where a public employee’s crime bore no relationship to his office or position, see, e.g., Garney, 469 Mass. at 389, Finneran’s crime directly concerns actions that he had carried out when he served as Speaker, in his role as Speaker. He worked on the redistricting plan

in his capacity as Speaker and later testified falsely about it. On its face, this connection is enough to create a ‘direct link between the criminal offense and [Finneran’s] . . . position.’” See Gaffney, 423 Mass. at 5.

The SJC also noted another factual link between Finneran’s crime and his position as Speaker of the House was his admitted motivation for its commission. It had been alleged that the plan was adopted in order to dilute minority representation in a number of House districts, including Finneran’s own district. By his own account, Finneran provided his false testimony to vindicate his conduct as Speaker of the House regarding the redistricting plan. This further underscores the factual connection between Finneran’s false testimony and his work on the redistricting plan as Speaker of the House. Simply put, “it is only because he had been Speaker of the House at the relevant time that he was in a position to testify as to the genesis of the redistricting plan and to do so falsely. This connection is enough to warrant forfeiture under § 15(4).” See, e.g., Maher, 67 Mass. App. Ct. at 616-617 (forfeiture proper where public employee broke into city hall and stole his personnel records). Given this, Finneran’s conviction of obstruction of justice is a “violation of the laws applicable to his office or position,” pursuant to § 15(4) and, accordingly, requires the statutory forfeiture of his pension.

January 1, 2016 Actuarial Valuation Highlights

by Gill E. Enos, Mayoral Board Appointee



Every two years, it is mandated that the retirement system conduct an analysis of the retirement system to assess its financial condition and to update the costs to properly fund the plan. The last such valuation was conducted as of January 1, 2016. In order to keep our members and retirees informed, some of the notable highlights from the report were as follows:

The total Employer normal cost contribution, as a percentage of payroll, fell to 5.2% of payroll. Considering social security is 6.2% of payroll, this is a favorable event.

The unfunded pension liability was reduced by over \$32 million – from a previous \$125,395,520 down to \$93,316,860 – significant progress in paying down liabilities

and funding the plan.

The funded status of the plan improved from 65.6% to 74.9% funded.

The plan is expected to be fully funded by the year 2026.



Section 90B – Waiver or Modification of Pension

by Barry J. Amaral, Board's Appointee

There may be some retirees that need to return to the public work force but are limited by the hours to be worked. If this is the case, you may “waive” or temporarily freeze receipt of your retirement allowance. This will allow you to work and earn as much as possible in the public sector.

Also, there may be retirees who receive fuel assistance or subsidized housing but the monthly retirement allowance is too large. If this is the case, you may request a reduction of a portion of your monthly retirement allowance.

Massachusetts General Laws, Chapter 32, Section 90B provides the following:

“Any person retired from the service of the commonwealth, or any of its political subdivisions, under any provision of any general or special law or any person claiming under any such retired employee whether as beneficiary, dependent or otherwise, may waive and renounce for himself, his heirs and legal representatives any portion of the pension or retirement allowance payable to him from the commonwealth, or any of its political subdivisions, for such period as he may specify in such waiver and renunciation. Such person may, in lieu of specifying an exact period of time in such waiver and renunciation, include a provision that such shall remain in effect until further notice.”

WEP Reform Update

by Peter H. Corr, Elected Member



For those retirees affected by the Social Security Offset, known as the Windfall Elimination Provision or WEP, some relief could soon be on the way. According to our local retiree organization, the Retired State, County & Municipal Employee Association of Massachusetts, there may be movement on a bill in Congress during the current legislative session. This is certainly good news.

The bill in the Congress sponsored by House Ways & Means Chairman Kevin Brady (R-TX) and Congressman Richard Neal (D-MA) and would provide a modification to the offset formula. A full analysis of the costs of modifying the WEP was already conducted back in 2016 along with public hearings etc. Therefore, the opportunity is here to finally see passage. Our sources inform us that the proposed bill would not survive as separate legislation but will have to be attached to a larger piece of legislation to endure. The Mass. Retiree Association is working closely with its contacts in Washington and the Ways & Means Committee to strengthen and improve the proposal. Let's hope this is the year we finally get WEP reform!

Retirement Board Staff Here to Serve You

Meet our dedicated staff Kathy Maki & Karen Medeiros. Kathy is Assistant Executive Director and Karen is Administrative Assistant. Kathy and Karen are here to assist you with any questions you may have regarding our retirement benefits. Please feel free to contact them here at the retirement office at (508) 821-1052.



KATHY maintains the retiree payroll and is the point of contact to make changes to bank account information, taxes withheld, etc. Kathy works with the city's Human Resources office to coordinate premiums to be withheld for health, life & dental insurance. Please contact H.R. for questions on these insurance benefits.

Kathy ensures that our retirees receive their direct deposit on the last business day of each month. She realizes that the retirees value the peace of mind that comes with knowing their funds will be available and in their bank accounts monthly. Please call or email Kathy (kmaki@taunton-ma.gov) if you have any payroll account questions.



KAREN assists with processing retirement applications. One of the many questions Karen receives involves the retirement process and what needs to be done. The retirement benefit law states an employee can file retirement papers up to four (4) months before their date of retirement but no later than fifteen (15) days before that date. For instance, if an employee wishes to retire on December 31st, then an application could be made any time after August 31st but no later than December 16th. This is the "application period" for a December 31st retirement date. Prospective retirees will need to provide their driver's license, birth certificate, a voided check, and DD214 form if a veteran. If selecting Option C for survivor benefits, then we also need the beneficiary's birth certificate and, if married, a marriage certificate. If you are thinking of retiring or just want an estimate please call or email Karen (kmediros@taunton-ma.gov).

Also, If you have worked part time or per diem (with 6 consecutive months of service) and you are interested in purchasing your time please contact Karen. She will counsel you on the procedure and do the calculation for you.



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104 Dean Street, Suite 203
Taunton, MA 02780



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Direct Deposit Schedule for 2018



Taunton
Board of
Retirement

Retirement Allowance Payment Dates

Month	Year
JANUARY.....	01/31/2018
FEBRUARY	02/28/2018
MARCH	03/30/2018
APRIL	04/30/2018
MAY.....	05/31/2018
JUNE.....	06/29/2018
JULY.....	07/31/2018
AUGUST	08/31/2018
SEPTEMBER	09/28/2018
OCTOBER.....	10/31/2018
NOVEMBER	11/30/2018
DECEMBER	12/31/2018