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Retirement Newsletter

City of Taunton Contributory Retirement System

SPRING 2016 EDITION



Public Employee Defined Benefit Pension Plan - Your most valuable asset

by Paul J. Slivinski, *Executive Director*

While many new workers are initially more focused on their wages upon beginning public employment, over time longer tenured employees begin to realize how valuable an asset their public employee pension really is. Naturally most employees are not thinking about retirement when they first start working and it is something they put off dealing with until later on.

Taunton ("City") public employees along with the Taunton Housing Authority & GATRA receive their primary retirement benefit through a Defined Benefit ("DB") Plan rather than a Defined Contribution ("DC") Plan. The DB plan is administered under Massachusetts General Law Chapter 32. In some states, there has been an active effort to alter - or even close - DB plans. It is critical that you understand the difference between the two types of plans and how valuable your DB plan is:

- In our Taunton DB plan, your retirement benefit is determined by a preset formula. The formula includes (1) your combined years of service with the City and/or other Massachusetts retirement systems, (2) your final average salary and (3) your age. During your active employment, both you and the City make contributions to the Retirement System. These contributions become part of the System's funds and are invested by professionals retained by the Taunton Retirement Board. Funds in the System's investment portfolio are used to pay retirement, disability, and survivor benefits. You personally are not impacted by investment decisions because your benefit level is established in advance by Massachusetts state law.
- In a Defined Contribution Plan ("DC") plan, which is offered primarily in the private sector but gaining momentum in the public arena, your retirement benefit is determined by the amount of assets in your personal account at the time of your retirement and you determine how the assets are to be disbursed in your retirement years. During your active employment, both you and your employer make contributions to your personal account. You have primary responsibility to determine how these funds are invested. Your investment decisions and factors such as the general state of the economy will influence the amount of funds available at the time of retirement. Poor investment choices can have a huge impact on your retirement benefit.

In comparison, a DC plan is woefully inadequate when compared to the lifetime allowance and security provided by our DB plan.

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Your Defined Benefit Plan is the most important part of your retirement security

- It's something you rarely think about, but that doesn't mean it's not valuable to you.
- During the years you have been in public service, you and the City have been contributing towards your retirement security through your Taunton DB plan.
- Don't underestimate the value of this important asset of yours. Throughout the years as you are working and as your age, salary and contributions grow, your Taunton DB plan grows significantly in value.
- After you retire, your Taunton DB plan will provide you with a guaranteed lifetime income regardless of how long you live.
- For this reason, your Taunton DB plan should be the foundation of your retirement "plan." You may also have Social Security, your own personal savings, and/or the city's Deferred Compensation Plan to enhance your retirement income but nothing can truly replace what your Taunton DB plan can provide you. Because it cannot be diminished, it is the most valuable asset you own.

Whether one realizes it or not, your public employee retirement benefit is the envy of many - especially those in the private sector. Sadly, many of our private sector counterparts have lost their defined benefit pension plans ("DB's") over the years due to elimination of said plans by corporate America and certain states. We are very fortunate to still have our DB plan!

What does an employee receive for being in a Massachusetts public DB plan?

You can receive to 80% for a "regular" retirement. This is commonly referred to as "Superannuation." An employee also has disability retirement benefits for non-job related incapacity (Ordinary Disability) and job-related incapacity (Accidental Disability). Finally there are Survivor benefits available to surviving spouses, dependents and other family members. The Regular retirement, Disability & Survivor benefits comprise the so-called "Defined benefits" hence the term Defined Benefit Plan. Your DB plan is a contractual obligation of the City of Taunton and is protected under the contract clause of the Massachusetts State Constitution. Again, your DB plan is indeed your most valuable asset and something you can count on!



The Effect of a Divorce on your retirement benefits

by Dennis M. Smith, Elected Board Member

"...As a part of the final Judgment in this matter, pursuant to M.G.L. Chapter 208, Section 34, governing the division of marital property between spouses and former spouses in divorce actions, and the decision of the Supreme Judicial Court, Contributory Retirement Board of Arlington v. Mangiacotti, 406 Mass. 184 (1989) it is hereby ORDERED as follows:..."

This is the clause that precedes the standard Domestic Relations Order ("DRO"). It is required in order to divide your pension benefits in the case of divorce - assuming the two parties have agreed to do so.

How are my retirement benefits an issue in my divorce?

Your pension from the Taunton Retirement System ("TRS") is generally considered a marital asset and, whether you are currently receiving a retirement allowance or are still actively in service, it may be subject to valuation and division in a divorce.

What is a Domestic Relations Order?

A domestic relations order - commonly known as a DRO - is a judgment, decree or order (including approval of a property settlement agreement) that sets out how a person's retirement benefits are to be allocated

between parties who are in the process of divorcing or who are already divorced. The DRO must be reviewed and accepted by the TRS to ensure that it complies with the General Laws and is enforceable.Ⓔ

The process of having a DRO accepted by the TRS involves the following steps:

- 1) The parties submit the DRO to the TRS;
- 2) The TRS's legal counsel reviews the DRO to be sure that it complies with the TRS plan (Massachusetts General Law Chapter 32) and can be implemented. If the DRO is not acceptable, the TRS's legal counsel will notify, in writing, the attorney submitting the DRO that revisions need to be made. If the DRO is acceptable and has been signed by the court, the TRS will send a standard letter accepting it as a qualified domestic relations order.
- 3) The TRS will file the DRO in the member's file to be implemented at the appropriate time - usually upon the retirement of the member.

Option C Retirees take notice on the impact of divorce!

If you retire and choose Option C and nominate your spouse as your Option C beneficiary, please be advised that this choice cannot be changed. We have had some retirees who, later divorced after retiring under Option C and, asked to change their Option C beneficiary. You cannot change the Option C beneficiary. Therefore your ex-spouse would still be entitled to the Option C survivorship after you are deceased.

If you have any questions or need further information pertaining to a DRO, please contact our courteous and knowledgeable staff for a sample DRO and related details.

¹Source-Mass. Teachers Retirement System Q&A guide to DRO's.

Experience Study – an analysis of the Taunton Retirement Plan



by Ann Marie Hebert, Chairperson/City Auditor

The Taunton Retirement Board recently conducted an Experience Study on the retirement system which looked at the economic and demographic (non-economic) experience for the plan.

The purpose of the study was to assess service-based retirements, rate of withdrawal, mortality and disability. Also included was a review of the plan's economic assumptions, including interest rate and salary increase rates. Statistical data was reviewed for the last six years from January 1, 2010 through December 31, 2015. The study was conducted by Sherman Actuarial Services.

The results of the study provided the board trustees with important information to determine if actuarial assumptions should be changed based on actual experience over a longer time horizon. Typically an actuarial valuation is conducted every two years. However by studying a longer time horizon, a more accurate measurement can be made to ensure that plan assumptions line up with actual experience.

Some of the results were noteworthy:

- Salary increases and payroll growth were consistent within our assumption of 3%
- Investment rate of return was 9.87% over the last 30 years compared with assumption of 8%
- Retirement rates were surprisingly greater at an earlier age for Group 1 members and Group 4 members were normal in comparison
- Termination rates were higher than expectations
- Disability rates were lower than expected
- Mortality rates were much lower than forecasted

The Board will now use this information to update all assumptions to conduct an actuarial valuation on the plan as of January 1, 2016 and to use this study to update the funding schedule to properly finance your retirement benefits.

Legal Tidbits – Analysis of pending appeals and court cases

by Attorney Michael Sacco, Attorney to the Retirement Board

2016 – A Year of Decisions

2016 is shaping up to be a year in which several significant and controversial issues will be ruled upon by the Contributory Retirement Appeal Board (“CRAB”), the Superior Court, the Appeals Court and the Supreme Judicial Court. Here are some highlights of these very important cases:



SUPREME JUDICIAL COURT

Public Employee Retirement Administration Commission v. Edward Bettencourt, 2014-P-1844

In the *Bettencourt* case, the Supreme Judicial Court (“SJC”) will be deciding whether a pension forfeiture is considered a fine under the 8th Amendment to the United States Constitution. This case involves a police officer who was convicted of a criminal offense in violation of the laws applicable to his office or position pursuant to M.G.L. c. 32, § 15(4), and thus required to forfeit his pension. The lower courts upheld the Section 15(4) violation, but were split on the 8th Amendment issue: the District Court ruled that a pension forfeiture was a fine, and that the fine was excessive, thus violating the 8th Amendment and reinstating the pension; on appeal, the Superior Court ruled that a pension forfeiture is not a fine, and thus reinstated PERAC’s decision to not approve the pension. Since Section 15(4) was first enacted in 1988, the SJC and the Appeals Courts have assumed without deciding that a pension forfeiture is not a fine, and in each case found that the fine was not excessive. In this case, since the Superior Court found that a pension forfeiture was not a fine, the SJC will now have to decide whether a pension forfeiture is a fine. If the SJC rules that a pension forfeiture is not a fine, then any criminal conviction – even a misdemeanor that does not require incarceration – that directly involves a retirement system member’s position or official duties, will result in a pension forfeiture that by definition will not consider whether the fine is excessive since it will no longer be considered a fine. Conversely, if the SJC rules that a pension forfeiture is a fine, then the law will essentially stay the same and in each case a determination will need to be made

whether the fine is “excessive” – in lay terms, whether the punishment fits the crime.

APPEALS COURT

Stoneham Retirement Board v. Contributory Retirement Appeal Board, 2015-P-1184

This case involves a challenge to the so-called, “once a member, always a member” colloquialism that has never faced judicial scrutiny. In short, each of the 105 retirement systems in the Commonwealth has the discretion to determine membership eligibility for individuals employed in a less than full-time capacity. Most retirement systems – including the Taunton Retirement System – require an individual to be permanently employed 20 or more hours per week to become a member of the retirement system. In the past decade or so, with financial challenges facing many municipalities, employees hours have been reduced below the minimum 20 hours mainly in part because doing so relieves the municipality of the obligation to offer health insurance to that employee. The “once a member, always a member” doctrine would require a retirement system to continue to include a member whose hours are reduced below the 20 hour minimum threshold in the retirement system, and continue to prorate the creditable service based on the full-time equivalent of the position. In this case, Stoneham takes the position that the 20-hour minimum threshold is not simply an entry requirement, but rather a continuous requirement for membership. This case involves an employee who was hired in 2000 at 19 hours per week, but for a 9-week period in 2001 when a teacher went out on maternity leave, her hours were increased above the 20 hour threshold, and she was entitled to membership in the retirement system. The following school year, and every year since, the employee worked 19 hours per week, so the question in this case is whether this employee, based solely on satisfying the criteria for membership for a 9 week period, should have continued to be a member and accruing creditable service for the last 15 years. CRAB sided with the member, however the Superior Court overturned the CRAB decision, recognizing that it is within the discretion of the retirement board to determine whether membership should continue when an individual falls below the minimum threshold. The Appeals Court will now have to decide this issue.

SUPERIOR COURT

Public Employee Retirement Administration Commission v. Swampscott Retirement Board, 2015-1430E

This issue in this case is whether supplemental compensation paid to an employee who is receiving worker's compensation for a job-related injury will be considered regular compensation. Many municipalities, either pursuant to collective bargaining agreements or through past practice, allow employees who are receiving worker's compensation to supplement those payments with the use of accrued sick leave and/or vacation time in small increments to remain on the payroll. The oversight authority for all retirement systems, the Public Employee Retirement Administration Commission ("PERAC") has opined for decades that such supplemental compensation is regular compensation, and the impact of this decision is not to prevent the allowance of these payments, but to determine whether they should be considered regular compensation, which will impact the effective date of someone who is receiving worker's compensation and who subsequently retires for accidental disability. Swampscott determined that these supplemental payments were not regular compensation and CRAB agreed, and now PERAC seeks to have that decision overturned.

CONTRIBUTORY RETIREMENT APPEAL BOARD - ("CRAB")

The most significant issue pending at CRAB pertains to the issue of how call/reserve/permanent-intermittent creditable service is to be awarded to police officers and firefighters who were on their respective civil service lists prior to being permanently appointed to the same police or fire department. A decision issued in 2013 - *MacAloney v. Worcester Regional Retirement Board, CR-11-19*

- overturned more than 30 years of policy which allowed police officers and firefighters who were on their respective lists and were available for call, reserve and/or permanent intermittent service to receive credit for this service at no charge to the member. *MacAloney* changed that by requiring that members remit contributions and interest to their respective retirement systems to receive credit, which created a conundrum for those communities who had police officers and firefighters on their respective lists, but who did not actually perform any compensated duties while on the list. The two cases pending at CRAB - *Gomes v. Plymouth Retirement Board, CR-14-127* and *Grimes v. Malden Retirement Board, CR-15-5* - are on different sides of the issue, but together will hopefully clarify *MacAloney* once and for all. *Plymouth* is taking the position that *MacAloney* was improperly decided, and asking CRAB to reconsider its decision and conclude that the service should be credited at no charge to the employee, as the provision of M.G.L. c. 32, § 4(2)(b) which governs this service does not require any payment; *Malden*, on the other hand, has taken the position that since *MacAloney* requires the remittance of payment for the service, and a member can only remit payment if the member was actually paid, then those members who were on their lists but never worked - and thus were not paid - are not entitled to the service. Regardless of CRAB's decision, it is certainly possible that it will be appealed and the Courts will decide the issue, but the uncertainty CRAB created in *MacAloney* has made it difficult for many members to plan for retirement and this fundamental unfairness needs to be resolved.



Employment After Retirement

by *Barry J. Amaral, Board's Appointee*

Retired employees have no restrictions on employment or earnings for work in the "private" sector. It is only when a retiree seeks to work in the "public" sector that there are limitations.

Am I limited in the amount of income I earn or receive from other sources after my retirement for superannuation?

You are limited in the amount of income you earn or receive from other sources after retirement for superannuation only if you are re-employed in the service of the Commonwealth or any of its counties, cities, towns, districts or authorities.

What are the restrictions pertaining to public service re-employment following superannuation retirement?

Public Service Re-employment Limitations

In accordance with Section 91 of Chapter 32 of the Massachusetts General Laws, there are two strict limitations on further public employment in the Commonwealth following your retirement from a public service position.

Earnings and Hours

Your earnings for the period of post-retirement employment in any calendar year, when added to

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What is a funding schedule and how does it relate to the city's budget?

by Gill E. Enos, Mayoral Board Appointee



As mentioned in Chairperson Ann Marie Hebert's article, the Taunton Retirement Board conducts an actuarial valuation every two years and uses the results to update the system's funding schedule. The funding schedule sets out the annual costs for the City to properly fund and finance your retirement benefits.

Pension costs are a legal obligation of the City and are required to be included in its annual tax levy. The City's budget contains a line-item for the current fiscal year appropriation that covers the period of July 1st thru June 30th. The pension appropriation is paid to the retirement system on a quarterly basis.

The pension appropriation amount is made up of two components. One portion is called the "normal cost" and the other portion is called the "amortization payment." These two portions fund current benefits and pay off past accrued liabilities.

Normal Cost: represents that part of the cost of a member's future benefit which are assigned to the current year as if the costs were to remain level as a percentage of the member's pay. Simply put, this is the City's cost to pre-fund your retirement benefit.

Amortization payment: represents that part of the cost to pay off all past retirement benefits earned but never pre-funded - a.k.a. the unfunded pension liability. The retirement system has set a schedule to eliminate the unfunded pension liability by the year 2030 as follows.

Appropriation Forecast (funding schedule)

Fiscal Year Ending	Normal Cost	Amortization Payments	Employer Total Cost	Actuarial Basis Funded Ratio %	Fiscal Year Ending	Normal Cost	Amortization Payments	Employer Total Cost	Actuarial Basis Funded Ratio %
2015	\$3,551,032	\$11,202,124	\$14,753,156	65.8	2024	\$4,553,775	\$15,643,756	\$20,197,531	83.8
2016	\$3,654,308	\$11,289,598	\$14,943,906	67.6	2025	\$4,674,700	\$16,347,725	\$21,022,425	86.0
2017	\$3,759,688	\$11,605,377	\$15,365,065	69.5	2026	\$4,797,288	\$17,083,373	\$21,880,661	88.2
2018	\$3,867,153	\$12,127,619	\$15,994,772	71.5	2027	\$4,921,442	\$17,612,407	\$22,533,849	90.5
2019	\$3,976,676	\$12,673,362	\$16,650,038	73.4	2028	\$5,047,055	\$18,404,966	\$23,452,021	92.8
2020	\$4,088,225	\$13,243,663	\$17,331,888	75.4	2029	\$5,174,008	\$19,233,189	\$24,407,197	95.2
2021	\$4,201,761	\$13,839,628	\$18,041,389	77.4	2030	\$5,302,166	\$20,098,683	\$25,400,849	97.6
2022	\$4,317,236	\$14,325,456	\$18,642,692	79.5	2031	\$5,431,381	\$	\$5,431,381	100.0
2023	\$4,434,595	\$14,970,101	\$19,404,696	81.6	2032	\$5,561,489	\$	\$5,561,489	100.0

As you can see from the funding schedule chart, the retirement plan will be fully funded by the year 2030 assuming positive investment returns and positive actuarial experience - i.e. # of retirements, disabilities and mortality etc.



How does my public pension affect my Social Security benefits?

by Peter H. Corr, Elected Member



Members who also worked in the private sector and accumulated enough quarters to qualify for Social Security ("SS") should be aware that their Social Security benefits may be reduced under one of two formula's - **Windfall Elimination Provision** or **Government Pension Offset**.

BACKGROUND: The Windfall Elimination Provision (WEP) is a formula used to adjust Social Security worker benefits for people who receive "non-covered pensions" and qualify for Social Security benefits based on other Social Security-covered earnings. A **non-covered pension** is a pension paid by an employer that does not withhold Social Security taxes from your salary, typically, state and local governments or non-U.S. employers.

HOW THE WEP WORKS: Social Security benefits are calculated by applying three different percentages to a person's lifetime Average Indexed Monthly Earnings (AIME) and adding them up

to obtain the worker's monthly benefit (Primary Insurance Amount (PIA)) at full retirement age. For most beneficiaries in 2015, the PIA equals the sum of:

- **90 percent of the first \$826 of AIME**, plus
- 32 percent of AIME over \$826 and through \$4,980, plus
- 15 percent of AIME over \$4,980.

If a worker has 20 years or less of substantial earnings in the private sector, the 90 percent factor (above) will be reduced to 40%.

i.e. **Normal: 90% of the first \$826 = \$743.20 per month**

WEP Affect: 40% of the first \$826 = \$330.40 per month – a reduction of \$413/month!

If a worker has over 30 years of substantial earnings, then there is no offset and no WEP.

If a worker has between 20 and 30 years of substantial earnings, then the following scale shows what the WEP percentage would be between 45 and 85%.

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20	40 percent

Substantial Earnings 1985 - 2015			
1985	\$7,425	2001	\$14,925
1986	\$7,875	2002	\$15,750
1987	\$8,175	2003	\$16,125
1988	\$8,400	2004	\$16,275
1989	\$8,925	2005	\$16,725
1990	\$9,525	2006	\$17,475
1991	\$9,900	2007	\$18,150
1992	\$10,350	2008	\$18,975
1993	\$10,725	2009	\$19,800
1994	\$11,250	2010	\$19,800
1995	\$11,325	2011	\$19,800
1996	\$11,625	2012	\$20,475
1997	\$12,150	2013	\$21,075
1998	\$12,675	2014	\$21,750
1999	\$13,425	2015	\$22,050
2000	\$14,175		

BACKGROUND: The Government Pension Offset (GPO) was a provision in the 1977 Social Security Amendments signed into law by President Jimmy Carter, at a time when the Democrats controlled both the House and Senate. The provision originated in the Senate Finance Committee, then chaired by Sen. Russell Long (D-LA). House Ways and Means Committee Chairman Al Ullman (D-OR) pushed through an amendment in the House to provide a five-year transition period so that the GPO was not effective until 1982. Subsequent amendments changed the effective date to 1983, and applied the \$1-for-\$1 offset against two-thirds of the pension, instead of the entire pension used as the offset in the original provision.

The **Government Pension Offset (GPO)** affects members who apply for SS spousal benefits, based upon their husband's or wife's work record under the program, and fail to satisfy two exceptions. Members must either be eligible for their public pension before December 1, 1982 and meet all requirements for SS spousal benefits in effect in January 1977, or be eligible for their pension before July 1, 1983 and receiving one-half support from his or her spouse.

Unless a member satisfies one of these two exceptions, then the amount of their SS spousal benefits will be reduced by two-thirds of their public pension. For example, if your pension is \$9,000 and you're eligible for \$6,000 in SS spousal benefits, two-thirds of your pension (\$6,000) would unfortunately reduce your SS benefits to zero.¹

¹Source – Massachusetts Retiree Association and www.socialsecurity.gov

Note: as of this printing, the U.S. Congress held a hearing on March 22, 2016 on reforming the Social Security Windfall Elimination Provision (WEP) law. The WEP reform bill, H.R. 711, is now before the House Social Security Subcommittee. Lead co-sponsors of the bill are Congressman Kevin Brady (R-TX) and Massachusetts Congressman Richard Neal. If passed into law, this proposal will increase the average Social Security benefit of those retirees impacted by the WEP by \$100-\$125 per month beginning in 2017. Retirees affected by the Government Pension Offset (GPO) should note that discussions are underway to tackle GPO reform in 2016 but no bill exists at the moment.



Taunton Board of Retirement

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Employment After Retirement

your retirement allowance, cannot be greater than the salary currently being paid for the position from which you retired plus \$15,000. The additional \$15,000 is not utilized in the calculation in the first year following retirement.

Your post-retirement employment is also limited to a period of up to 960 hours, in the aggregate, in any calendar year.

Your employment must cease when either limitation is reached.

A retiree can waive his or her retirement allowance and these limitations would not apply.

Section 91

It is also important to keep in mind:

- § 91 applies to both superannuation and disability retirees.
- § 91 applies to any public employment, regardless of whether or not it occurs in the same governmental unit from which the employee retired..
- It is irrelevant whether an employee-retiree chooses to classify him or herself as a “consultant” or “independent contractor”— the § 91 earnings limitations still apply if in fact the nature of the relationship is as an employee.

For persons who retire after July 1, 2009, earnings

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as a consultant or an independent contractor are limited.

- A retiree may not avoid the limitations in § 91 by forming a company if the primary reason for the formation is to avoid the limitations.
- Earnings for “details” which are paid by city or town payroll are included in the § 91 limitations, regardless of whether the city or town ultimately bills a private entity for the work.
- The § 91 limitations apply only to retirees, not survivors or beneficiaries.

Is there any public sector re-employment that is not affected by these limitations?

Yes, you may:

- be paid for jury duty,
- be paid for services as an election officer,
- hold certain paid appointive positions, and
- certain emergency employment may be authorized.

In addition, you may be elected to office by a direct vote of the people following your retirement, and be paid for the same without limitation if the position from which you retired was not an elective office. If the position from which you retired was an elective office, then the earnings limitations will apply to you unless at least one year has passed from the last day you held said public office and the commencement of your post-retirement elective office.