



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

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MEMORANDUM

TO: All Retirement Boards

FROM: Commissioner John J. McGlynn

RE: Chapter 171 of the Acts of 1995

DATE: October 23, 1995

A handwritten signature in dark ink, appearing to read "J. McGlynn".

Attached is a copy of chapter 171 of the Acts of 1995. Governor Weld signed this act into law on October 19, 1995. The act contains three separate amendments to G.L. c. 32, including an amendment which increases the amount of benefits payable to surviving spouses of disability retirees pursuant to G.L. c. 32, § 101. Section three of the act amends G.L. c. 32, § 101 to increase benefits to \$6,000 per year. There is no emergency preamble attached to the act, so it will not be effective until ninety days from the date that the Governor signed it into law. By our calculation that date will be January 17, 1996. As of that date all persons receiving benefits pursuant to G.L. c. 32, § 101 are entitled to have their benefits increased to \$6,000 annually or \$500 per month.

Chapter 171 also contains two provisions which apply to call fire fighter service. Section one of the act adds a new paragraph (b $\frac{1}{2}$) to G.L. c. 32, § 4(2). Currently, pursuant to G.L. c. 32, § 4(2)(b), a permanent-intermittent or call fire fighter is not entitled to creditable service for employment in such capacity unless he or she is subsequently appointed as a permanent member of the fire department. In any city, town or fire district which accepts the provisions of this new paragraph (b $\frac{1}{2}$), creditable service for members employed as permanent-intermittent or call fire fighters may no longer be predicated on such members' subsequent appointment as permanent members of the fire department. See PERA Memo #20/1994 dated September 6, 1994 for a more thorough discussion of call fire fighter service.

Communities must accept the provisions of G.L. c. 32, §4(2)(b $\frac{1}{2}$) in the manner set out in the act. Acceptance in a city must be by vote of the city council in accordance with its

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city charter, in a town by vote of the town meeting and in a district by vote of the district meeting. To expedite approval of the retirement applications of members who are receiving service credit pursuant to this newly enacted section, we ask that retirement boards forward copies of such votes to this office.

Section two of this act adds a new section 85H½ to G.L. c. 32. This new section, which also must be accepted by local option, would amend and supersede the provisions of § 85H in two significant respects. G.L. c. 32, § 85H provides for two separate types of benefits for call fire fighters, members of a volunteer fire company, or reserve, special, or intermittent police officers. The first benefit under § 85H is a disability pension for such employees. The amount of such pension under the current § 85H is fixed at "two thirds of the annual rate of compensation payable to a regular or permanent member of the police or fire force, as the case may be, thereof for the first year of service therein, and if there are no permanent members of such force an annual pension in the sum of three thousand dollars." The new provision, upon local acceptance, would increase the amount of the pension in communities in which there are no permanent members of the police or fire department from the current three thousand dollars to a sum equal to two-thirds of the average salary for a first year regular fire fighter or police officer in the local area. This Division would be required to conduct a survey of three surrounding towns to determine such average.

The second portion of § 85H provides for injured-on-duty pay for call fire fighters, members of a volunteer fire company, reserve, special or intermittent police officers and reserve fire fighters. These benefits are analogous to the injured-on-duty pay available for permanent full-time members of a police or fire department pursuant to G.L. c. 41, § 111F. The new section 85H½ also deals with the amount of injured-on-duty pay to reserve, special, intermittent or call employees of such departments. Currently such benefits are payable in "the amount of compensation payable to a permanent member of the police or fire force thereof, as the case may be, for the first year of service therein, or if there are no regular or permanent members of the police or fire force thereof, at the rate of three thousand dollars per annum". Section two of this act, upon acceptance, would require payments in all cases of "a minimum allowance equal to the average annual salary of a first-year, regular fire fighter or police officer; such an average is to be determined by a survey of three surrounding towns, as determined by" PERA.

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It should be noted that benefits under section 85H½, as under section 85H, are not paid by the retirement system but rather the city, town or district in which such persons are employed. Also, the manner of local acceptance is not specified in this section of the act. Thus, acceptance is governed by G.L. c. 4, § 4 which provides as follows:

Wherever a statute is to take effect upon its acceptance by a city, town, municipality, or district, or is to be effective in cities, towns, municipalities or districts accepting its provisions, such acceptance shall, except as otherwise provided in such statute, be, in a city, by vote of the city council, subject to the provisions of the charter of such city, in a town, by vote of the town at a town meeting, in a municipality having a town council form of government, by vote of the town council, subject to the provisions of the charter of such municipality or, in a district, by vote of the district at a district meeting. For the purpose of this section, a municipality shall mean a town having a town council form of government.

Boards are requested to forward a copy of this Memo and the attached copy of chapter 171 of the acts of 1995 to the city councils, boards of selectmen and/or prudential committees of member units to inform them of this new enactment. Such units must contact PERA to provide evidence of their acceptance of this provision and to request a survey of the salaries paid in surrounding towns if and when a person is to be retired or paid benefits pursuant to the new section 85H½.

If you have any questions regarding these new provisions, please contact this office.

JJM/ds

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Attachment