

**MASSACHUSETTS**  
Public Employee Retirement Administration Commission  
5 Middlesex Avenue, 3rd Floor  
Somerville, MA 02145  
(617) 666-4446  
Fax: (617) 628-4002  
[www.state.ma.us/PERAC](http://www.state.ma.us/PERAC)

MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Waiving of underpayments by and overpayments to members

DATE: August 15, 2000

Section 91 of Chapter 159 of the Acts of 2000 (the FY 2001 state budget) adds G.L. c. 32, § 20(5)(c)(1), (2) and (3) which allows retirement boards to waive certain repayments of amounts which have been overpaid to members/beneficiaries or amounts owed to the retirement board by members/beneficiaries. The waiver may be voted upon by the board only at the request of a member or beneficiary.

The error which resulted in amounts owed to the retirement board must be related to an incorrect benefit payment or amount contributed to the system. The board has discretion whether or not to waive such repayments as long as the demand for repayment of such amounts was made by the retirement board after July 1, 1995.

When a board wishes to waive the repayment of a demand, it must first investigate the circumstances of the amount owed and determine that the waiver meets the following criterion:

- (1) the error in any benefit payment or amount contributed to the system persisted for more than one year;
- (2) the error was not the result of erroneous information provided by the member or beneficiary and;
- (3) the member or beneficiary did not have knowledge of the error or did not have reason to believe that the benefit amount or contribution rate was in error.

If a member/beneficiary is currently making payments under a repayment plan and the other criterion are met, a board may vote to waive the remainder of the repayment plan. A board, however, may not refund any amounts which have already been paid since the statute does not specifically authorize such refunds. Likewise, repayments which have been completed may not be refunded. Boards may waive

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TO: All Retirement Boards  
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RE: Waiving of underpayments by and overpayments to members  
DATE: August 16, 2000

the future reduction of the annuity portion of a retiree's allowances for retirees who have had the annuity portion of their retirement allowance reduced to allow for repayment of amounts due, but may not refund the amount of the previously reduced annuity portion.

We trust the foregoing is of assistance. Additional memoranda on other aspects of the state budget will be forthcoming. If you have further questions or concerns, please contact this office.