

## FY 2011 Budget Outside Sections 21-34

### *No Lobbyists for State Entities*

SECTION 21. Said [chapter 29](#) is hereby further amended by inserting after section 29I the following section:- Section 29J. Notwithstanding [section 50 of chapter 3](#), or any other general or special law to the contrary, a state agency or state authority shall not use state funds to pay for an executive or legislative agent, as defined in [section 39 of said chapter 3](#), unless the executive or legislative agent is a full-time employee of the state agency or state authority.

### *Open Meeting Notices*

SECTION 22. The third paragraph of subsection (c) of [section 20 of chapter 30A](#) of the General Laws, as appearing in [section 18 of chapter 28 of the acts of 2009](#), is hereby amended by inserting after the words "attorney general" the following words:- and a duplicate copy of said notice shall be filed with the regulations division of the state secretary's office.

### *Cap Pension Earnings*

SECTION 23. The definition of "Regular compensation" in [section 1 of chapter 32](#) of the General Laws, as most recently amended by [section 2 of chapter 21 of the acts of 2009](#), is hereby further amended by inserting after the second paragraph the following paragraph:- Notwithstanding any provision of this chapter to the contrary, regular compensation for any person who becomes a member after January 1, 2011, shall not include salary, wages or other compensation in whatever form in any calendar year in excess of 64 per cent of the annual limitation that may be imposed under federal law on the amount of compensation that may be taken into account when calculating benefits under plans described in 26 U.S.C. 401(a) including, but not limited to, the applicable limits for any calendar year under 26 U.S.C. 401(a)(17). Faculty, librarians and administrators in public higher education, as well as any physicians employed by the commonwealth who are eligible for the state retirement system, shall not be prohibited from participating in the college retirement equities fund or the optional retirement program by the Teachers Insurance and Annuity Association.

### *Pension Funding Schedules*

SECTION 24. Said [section 1 of said chapter 32](#) is hereby further amended by striking out, in line 488, as appearing in the 2008 Official Edition, the word "may" and inserting in place thereof the following word:- shall.

### *Interest Rate on Returned Retirement Deductions*

SECTION 25. Subdivision (1) of [section 11 of said chapter 32](#) is hereby amended by striking out paragraph (a), as so appearing, and inserting in place thereof the following paragraph:-

A member entitled to a return of the member's accumulated total deductions as provided for in paragraph (c) or (d) of subdivision (1) of section 4, in subdivision (4) of section 10, in paragraph (b) of subdivision (2) of section 13 or in subdivision (3) of section 25 shall, subject to subdivision (8) of section 3, this section and section 15, be paid in 1 sum the amount of his accumulated total deductions within 60 days after the member's filing with the board on a prescribed form his written request therefor. For any such member who becomes a member subsequent to January 1, 1984, who voluntarily withdraws from service with creditable service of less than 120 months, the rate of regular interest for purposes of calculating accumulated total deductions shall be 3 per cent. Any other member entitled to return of his accumulated total deduction shall receive 100 per cent of the rate of regular interest payable.

*No summary disposition in DALA retirement cases*

SECTION 26. \*\*Section was returned for amendment ([Attachment D](#))

The second paragraph of subdivision (4) of [section 16 of chapter 32](#) of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following 2 sentences:- A hearing assigned under this section shall, at the election of a party involving a claim hereunder, be subject to a full evidentiary hearing; provided, however, that such claims may be subject to summary procedure only at the request of any such party; and provided further, that the summary procedure shall be governed by the standard rules promulgated under [section 9 of chapter 30A](#) without addition or substitution thereto. The division of administrative law appeals may impose a reasonable administrative fee for the initiation of a claim under this section for the purpose of employing magistrates.

*Supplemental Pension Allowance to Widows of Disabled Employees*

SECTION 27. [Section 101 of said chapter 32](#), as so appearing, is hereby amended by striking out, in line 8, the words "six thousand dollars" and inserting in place thereof the following words:- either \$6,000 or, in a retirement system accepting the supplemental annual allowance as provided in this section, \$9,000.

*Supplemental Pension Allowance to Widows of Disabled Employees*

SECTION 28. Said [section 101 of said chapter 32](#), as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding the previous paragraph, a retirement system may accept a supplemental annual allowance fixed at the rate of \$9,000, by a majority vote of the board of each such system, subject to the approval of the legislative body thereof. For the purposes of this section, "legislative body" shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a region, the regional retirement board advisory council, in the case of a district, the district members and, in the case of an authority, the governing body of such authority. Acceptance shall be deemed to have occurred upon the filing of a certification of such votes with the commission. For purposes of this section, the state teachers' and state

employees' retirement systems shall be deemed to have accepted the supplemental annual allowance provided for by this section.

*Municipal Retiree Health Insurance Costs Allocated Between Employers*

SECTION 29. Said [chapter 32B](#) is hereby further amended by inserting after section 9A the following section:-

Section 9A1/2. Whenever a retired employee or beneficiary receives a healthcare premium contribution from a governmental unit in a case where a portion of the retiree's creditable service is attributable to service in 1 or more other governmental units, the first governmental unit shall be reimbursed in full, in accordance with this paragraph, by the other governmental units for the portion of the premium contributions that corresponds to the percentage of the retiree's creditable service that is attributable to each governmental unit. The other governmental units shall be charged based on their own contribution rate or the contribution rate of the first employer, whichever is lower.

The treasurer of the first governmental unit shall annually, on or before January 15, upon the certification of the board of the system from which the disbursements have been made, notify the treasurer of the other governmental unit of the amount of reimbursement due for the previous fiscal year and the treasurer of the other governmental unit shall immediately take all necessary steps to insure prompt payment of this amount. In default of any such payment, the first governmental unit may maintain an action of contract to recover the same, but there shall be no such reimbursement if the 2 systems involved are the state employees' retirement system and the teachers' retirement system.

*Pension Reform Effective Dates*

SECTION 30. [Section 65D of said chapter 32](#), as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "office," in line 5, the following words:- and a chief justice or an associate justice of the supreme judicial court.

*Essex Pension - Retirement Board Governance Reform 1*

SECTION 31. [Section 19 of chapter 34B](#) of the General Laws, as so appearing, is hereby amended by inserting after the word "date" in line 6, the following words:- ; provided, however, that this section shall not apply to Essex county or an entity managing the contributory retirement system formerly administered by Essex county unless explicitly noted otherwise.

*Essex Pension - Retirement Board Governance Reform 1*

SECTION 32. Paragraph (b) of said [section 19 of said chapter 34B](#), as so appearing, is hereby further amended by striking out clause (6).

*Essex Pension - Retirement Board Governance Reform 1*

SECTION 33. Said [chapter 34B](#) is hereby further amended by inserting after section 19 the following section:-

Section 19A. (a) The contributory retirement system for Essex county, operating under the terms of sections 1 to 28, inclusive, of [chapter 32](#), shall be known as the Essex regional retirement system and all business shall be transacted under the name of the Essex regional retirement system.

(b) The Essex regional retirement system shall be managed by the Essex regional a retirement board which shall have the general powers and duties set forth in subdivision (5) of [section 20 of chapter 32](#). The board shall consist of 5 members as provided herein:

(1) The first member shall be a chief executive or chief administrative officer of a member town, unit or district belonging to the Essex regional retirement system for a term of 3 years. This member shall be chosen by weighted vote of the chief executive or chief administrative officers of member towns, units or districts belonging to the Essex regional retirement system. The member town, unit or district weighted vote shall be computed based on the percentage of members of the retirement system who were employed by the member town, unit or district. For the purposes of this section, "chief executive or chief administrative officer" shall mean, in the case of a town, the town manager or town administrator, except for a town which has neither a town manager nor a town administrator, in which case it shall mean the chairman of the board of selectmen; in the case of a school district, the superintendent; in the case of a water district, the superintendent; in the case of a veterans' services entity, the director; in the case of a housing authority, the executive director; in the case of a regional vocational institute, the superintendent; in the case of a mosquito control district, the superintendent; and in the case of a regional retirement board, the chief executive officer; provided, however, that in the case of the Essex regional retirement board, the chief executive officer shall not be eligible to be elected as the first member of the regional retirement board. If the first member is not elected within 30 days of the expiration of the previous term, or in the event of any earlier vacancy in this office, the public employee retirement administration commission shall appoint the first member.

(2) The second member shall be a member of the regional retirement board advisory council, and shall be elected by a majority of those present and voting at a public meeting of the council, properly posted and specifically calling for such election under subsection (i) and shall serve for a term of 3 years.

(3) The third and fourth members, hereinafter referred to as the elected members, shall be elected by the members in or retired from service of the Essex county retirement system from among persons retired under the system in accordance with subsection (i) and shall serve for a term of 3 years.

(4) The fifth member, who shall not be an employee, retiree or official of the retirement system, or of any of its constituent governmental units, shall be chosen by the other 4

members and shall serve for a term of 5 years. If the fifth member is not chosen within 30 days of the expiration of the member's term, or if a vacancy in the office occurs before the end of the term, the public employee retirement administration commission shall appoint the fifth member.

(5) Upon the expiration of the term of office of a member, or in the event of a vacancy, the member's successor shall be elected for a term of 3 years or for the unexpired portion thereof, as the case may be. (

6) The members of the retirement board shall elect a chairman from among the members.

(c) The members of the Essex regional retirement board shall be compensated in an amount to be determined by the board but not to exceed the amounts set forth in subdivision (6) of [section 20 of chapter 32](#).

(d) No person shall be both a member of the Essex regional retirement board, or an employee thereof, and registered as a legislative or executive agent, as defined in [section 39 of chapter 3](#). Should a sitting member of the board register as a legislative or executive agent, as so defined, the member's seat shall be considered vacant.

(e) The retirement board may employ clerical and other assistants as may be required to transact the business of the retirement system; provided, however, that all employment contracts shall be subject to review and approval by the public employee retirement administration commission. All permanent employees of the retirement system shall be members of the retirement system.

(f) The retirement board may purchase or lease property, facilities and equipment and employ personnel necessary for the proper administration and transaction of business of the retirement system.

(g) The retirement board and the chairman thereof shall respectively be and act as the board and treasurer-custodian of the system with respect to the employees of any town or district who become members of the system as provided for in paragraphs (b) or (c) of subdivision (3) or paragraph (b) of subdivision (4) of [section 28 of chapter 32](#), or who have become members under corresponding provisions of law. The treasurer or other disbursing officer of any such town or district shall act as a liaison officer between the employees thereof and the board of the system.

(h) There shall be an Essex regional retirement board advisory council which shall consist of all the full-time treasurers, elected or appointed, of each city, town, unit or district in the Essex regional retirement system. If a city, town, unit or district does not employ a full-time treasurer, the highest ranking, full-time executive employee shall be a member of the Essex regional retirement board advisory council. The members of the advisory council shall elect a chair from among the members. The council shall meet twice annually and at the call of the chair. The council shall supervise and certify the

procedures involved in the election of members to the retirement board, as provided in subsections (b) and (i). Upon approval by votes of the retirement board and the council, the actuary shall be furnished with an estimate of the expenses and costs of administration of the system for the ensuing year. The actuary shall annually, not later than December 15, specify by written notice to the council and the board the amounts required to be paid from the Pension Fund, the Annuity Reserve Fund, the Special Fund for Military Service Credit and the Expense Fund, as provided in subdivision (7) of [section 22 of chapter 32](#). The regional retirement board advisory council, at a meeting specifically called for the purpose, shall elect 1 of its members, who shall be a member in service in the retirement system, as a member of the regional retirement board at the expiration of the current member's term, as provided in paragraph (2) of subsection (b). (i) The Essex regional retirement board advisory council, which shall serve as the election board, shall supervise the election of the elected members of the retirement board. The council shall make available nomination papers to a member in or retired from service so requesting and shall require that the nomination papers be signed by the candidate and be returned to the office of the retirement board for safekeeping until the election board shall meet. The chairman of the council shall give a duplicate receipt for the nomination papers to each candidate. Completed nomination papers shall contain the signatures and addresses of at least 5 active or retired members of the retirement system. The election board shall determine whether each candidate has filed nomination papers containing the requisite signatures and addresses. If, after an investigation, the election board determines that a candidate has filed nomination papers containing less than 5 signatures, the election board shall declare the nomination papers invalid and shall notify the candidate of the determination. If, after an investigation, the election board determines that only 1 candidate has filed the requisite number of signatures, the election board shall declare the candidate to be the elected member of the county retirement board. If, after an investigation, the election board determines that more than 1 candidate has obtained the requisite number of valid signatures, the election board shall notify the candidates of the determination and shall immediately prepare election ballots and set the date for an election to be held within 40 days.

The election board shall mail ballots to all members of the retirement system whether active or retired. The election board shall instruct each member to place an appropriate marking on the face of the printed ballot envelope next to the name of 1 candidate, insert the ballot into a ballot envelope and the ballot envelope into the pre-stamped envelope, seal the pre-stamped envelope and mail the envelope to the election board in care of the Essex regional retirement board, within 20 days after they were mailed. An envelope postmarked later than 20 days after the mailing shall not be used to determine the elected member. The election board shall notify each candidate of the time and location of the tabulation of the ballots and shall permit all candidates to be present at the tabulation. At the specified time for tabulation, the election board shall assemble all envelopes and inspect the envelopes. Any envelope which has been opened prior to that date or which has not been signed on the rear by the appropriate addressee shall be invalidated and shall not be used to determine the elected member. The election board shall assemble all properly signed, unopened envelopes and shall open each



envelope and separate the enclosed ballot from the envelope. The election board shall assemble all ballots and shall tabulate the vote for each candidate. Any ballot which contains a marking for more than the number of vacancies shall be declared invalid.

The election board shall notify each candidate in writing of the results of the election. All envelopes and ballots received by the election board, including those determined to be invalid, shall be preserved by the election board for 2 years. The costs incurred by the election board in administering the election shall be paid from the Essex regional retirement system administration fund.

(j) The group insurance commission shall make available to board members and employees of the Essex regional retirement board health, life and disability benefits and board members and employees shall be eligible to participate in all benefits administered by the group insurance commission. The costs thereof, including any administrative costs incurred by the group insurance commission, shall be borne by the employees and board members and the regional retirement system.

Any benefits provided, prior to the abolition of county government, to employees and retirees of a regional retirement system that are not available through the group insurance commission may be provided to employees and retirees through the Essex regional retirement system; provided, however, that the system is fully reimbursed, in the case of retirees, for the cost of the benefits, and, in the case of employees, is reimbursed in a percentage equal to that of the percentage paid by state employees for similar benefits.

(k) If the public employment retirement administration commission makes a written finding that the retirement board has violated or neglected to comply with [chapter 32](#) or the rules and regulations promulgated by the public employee retirement administration commission, in a manner that substantially impacts the duties or obligations of the board, the commission may appoint a receiver to oversee the retirement board. The receiver shall be authorized to take or refrain from taking any action in order to ensure that the system is managed with reasonable care, skill, prudence and diligence. The action may include, but shall not be limited to, the following: (i) transfer of assets to the PRIT Fund; (ii) removal of a board member; (iii) appointment of a board member; (iv) termination of a contract; (v) approval or denial of retirement benefits; (vi) employment or termination of employees; and, (vii) conduct a fiduciary audit.

#### *Corporate Election Advertising*

SECTION 34. [Chapter 55](#) of the General Laws is hereby amended by inserting after section 18F, inserted by [section 43 of chapter 28 of the acts of 2009](#), the following section:-

Section 18G. An independent expenditure or electioneering communication which is transmitted through paid radio, television or internet advertising shall include a statement disclosing the identity of the individual, corporation, group or association paying for the advertisement. If the independent expenditure or electioneering

communication is a radio or television advertisement, the advertisement shall include a statement by the individual paying for the advertisement in which the person acknowledges that he paid for the message and his city or town of residence. If the radio or television advertisement is paid for by a corporation, group, association or a labor union, the following statement shall be made by the chief executive officer of the corporation, the chairman or principal officer of the group or association or the chief executive or business manager of a labor union: "I am \_\_\_\_\_ (name) the \_\_\_\_\_ (office held) of \_\_\_\_\_ (name of corporation, group, association or labor union) and \_\_\_\_\_ (name of corporation, group, association or labor union) approves and paid for this message." Such statements in television advertisements shall be conveyed by an unobscured, full-screen view of the person making the statement. If an independent expenditure or electioneering communication is transmitted through internet advertising, the statement shall appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

Whoever violates this section shall be punished by imprisonment in the house of correction for not more than 1 year or by a fine of not more than \$10,000, or both.