General Overview of Duties, Responsibilities & Liabilities as a Retirement Board member in administering a Mass General Laws, Chapter 32, Retirement Plan

Please note, everything shown in this slide show was taken from various publications created by PERAC, the State’s oversight agency of the 104 Massachusetts Retirement Systems, with the exception of the bottom part of Page 3, which describes the current members of the Andover Retirement Board, and pages 5 & 6, which describe a typical Retirement Board meeting.
Creation of Retirement Boards
Massachusetts Retirement Boards are created by statute and have only the authority given to them by the legislature. In performing the duties of a Board member, one must act for the exclusive benefit of the members and their beneficiaries, using the skill, diligence and prudence that an expert would exercise.

Public Employee Retirement Administration Commission (PERAC)
PERAC is the Massachusetts oversight agency of 104 Retirement Systems. The Commission consists of seven members:
The Governor appoints three members, the State Auditor appoints three members, and the seventh member is appointed by the other six members and serves as Chairman.
An Executive Director, selected by the Commission, oversees the staff and administration at PERAC.

Independence and Autonomy of the Retirement Board
A Retirement Board is independent of the municipality whose employees make up the membership of the System. The Systems have their own separate assets and liabilities which are under the jurisdiction of their own separate Board. As an independent entity, a Retirement Board is not subject to the constraints of a municipal department.
Makeup of Town Retirement Boards per MGL, Chapter 32
• The Town Accountant is the board member ex-officio.
• The second member is appointed by the Board of Selectmen.
• The third and fourth members are elected by the members of the system, and are active or retired members of the system.
• The fifth member is chosen by the other four and cannot be an employee, retiree or official of the governmental unit.

One of these five board members is selected by the other four to serve as chairman.

Makeup of Your Retirement Board
• Theo Moccia is the Town Accountant/Asst Finance Director, and ex-officio.
• The second member position was VACANT from 05/01/2012 – 09/17/2014.
• Thomas P Hartwell of Andover was appointed in September 2014.
• The third and fourth members who were elected by the members of the system, and are currently active members of the system are James Cuticchia and Elena Kothman.
• The fifth member is Anthony Stankiewicz, Esq. Attorney Stankiewicz was previously the Vice President and Counsel for the Boston Stock Exchange (BSE), and was instrumental in the merger between BSE and NASDAQ. Prior to BSE, he served as a regulator for the Massachusetts Security Division (Mass SEC). He currently is Chief of Staff at Codman Health Care in Boston.

James Cuticchia serves as chairman.
How often do Retirement Board members meet?
Usually once per month, but there are situations that could require multiple meetings in a month, such as:
- Reviewing and interviewing Actuary Firms, along with reviewing RFP’s for same.
- Reviewing and interviewing Legal Firms, along with reviewing RFP’s for same.
- Reviewing & interviewing money managers & consultants, along with reviewing RFP’s for same.
- Preparing for presentations at Town Meeting, Joint or Board of Selectmen meetings.
- Meet deadlines prior to the next regularly scheduled Board meeting.

How long does a typical meeting last? Approximately 1½ - 3 hours.

Does the Retirement Board ever enter into Executive Sessions?
Yes, by roll call vote of members.

Contracts for services provided: The Retirement Board oversees hiring certain vendors to provide services, including Actuarial consultants, Retirement software program providers, legal services, etc. Contracts must be sent out for RFP’s at least every five years.
Order of business for a typical meeting:
• The Retirement Board reviews/approves the minutes from previous meetings.
• The Retirement Board reviews/approves monthly receipts and expenditures, including the monthly retirement payroll, salaries paid to staff members, various expenses incurred during the month, and stipends paid to the Town Accountant and Town Treasurer (as accepted by Town Meeting in 1980).
• The Retirement Board reviews/approves applications for refunds or rollovers by inactive members.
• The Retirement Board reviews/approves transfers into or out of the system.
• The Retirement Board reviews/approves makeup requests.
• The Retirement Board reviews/approves members’ Intent to Retire forms. The Retirement Board confirms deaths of members or survivors.
• The Retirement Board reviews retirement allowance calculations and sends them into PERAC for their review and approval.
• The Retirement Board oversees its investments with the State run PRIT fund, confirms wire transfers (incoming and/or outgoing), and stays abreast of investment issues.
• The Retirement Board reviews & processes accordingly applications for Accidental or Ordinary Disability retirement filed by members.
Order of business for a typical meeting (continued):
• The Retirement Board reviews salaries and other monies paid to employees, along with monitoring employee contracts, to ensure proper retirement contributions are taken from earnings considered regular compensation.
• The Retirement Board handles reimbursements to and from other Massachusetts Retirement Systems in regards to Massachusetts General Laws, Chapter 32, section 3(8)(c).
• The Retirement Board may submit warrant articles for annual Town Meeting as determined.
• The Retirement Board reviews/approves the monthly cash books and bank reconciliation concerning its assets.
Fiduciary Responsibility of Retirement Board Members:

Retirement Board members are fiduciaries of the Retirement System because they have control over plan assets through investments and purchasing goods and/or services.

Special duties of fiduciaries include the following:
- Loyalty (not just honesty but the highest standard of loyalty)
- Prudence
- Monitor the activities of employees and advisors
- Impartiality – fairness to all members and beneficiaries (no favoritism)
- Avoid conflicts
- Comply with retirement laws and regulations and any other applicable laws
- Expend system assets reasonably and properly
- Collect contributions timely and correctly
- Hire and monitor competent staff and necessary experts/specialists
To whom do fiduciaries owe a duty?

A fiduciary’s duty is owed *solely* to the members and beneficiaries of the system. This includes current and future beneficiaries. Retirement plans usually act with a 30+ year horizon.

Retirement Board members are not representatives of the interests of others.

• Not the people who elected or appointed them
• Not the “taxpayers”
• Social and political agendas must mesh with the duty to act for the sole interest of the members and beneficiaries.

What activities or relationships are prohibited?

• Receiving a payment or anything of value for acting as a fiduciary.
• Dealing with the assets of the board for personal gain or profit.
• Acting on behalf of someone other than the members or beneficiaries.
• Causing or allowing the retirement system to engage in a prohibited transaction.
Requirements for Retirement Board members:

**Statement of Financial Interests:** Retirement Board members are required to annually submit (to PERAC) a completed Statement of Financial Interests by May 1st each year (for the prior year ended).

**Retirement Board member training requirements:** Retirement Board members are required to complete ongoing training which will give each member 18 hours of training credits during their 3-year term. A maximum of 9 credit hours are allowed per calendar year (a member may complete more, but will only be credited with 9 per year).

**Complete Conflict of Interest training every two years:** Retirement Board members are required to complete the state Conflict of Interest training every two years.

**Sources:**
- PERAC General Overview of Duties, Responsibilities, & Liabilities as a Board/Staff Member in Administering a Ch 32 Retirement Plan
- PERAC Monthly Meetings and Records
- PERAC Fiduciary Responsibility of Retirement Board Members and Staff as presented by Barbara Phillips, PERAC General Counsel and Derek Moitoso, PERAC Associate General Counsel
- Massachusetts Public Employee Retirement Guide