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Governor Patrick Proposes Further Reforms to the Massachusetts Public Pension System

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In an effort to cut costs and ensure the financial viability of the State's public pension system over the long haul, Governor Deval Patrick recently announced that he is filing legislation to further reform the public pension system. The downturn in the economy in recent years and the resulting losses for many public pension systems in Massachusetts have increased the urgency to make changes in order to preserve and sustain benefits for current and future public employees. House Speaker Robert A. DeLeo and Senate President Therese Murray have agreed that further reform is necessary, but whether the Governor's proposal or another proposal will emerge from the Legislature this year is unclear.

The Governor's plan for reform includes the following key components:

- Increasing the retirement age for most public employees – For Group 1, the retirement age would increase from 55-65 to 60-67. For group 2, the increase would be from 55-60 to 55-62. Group 3 (state police) who can currently reach their maximum benefit with 25 years of service would see that increased to 30 years. Group 4 would see an increase in retirement age from 45-55 to 50-57.

- Reducing the Group 1 contribution rate - New employees in Group 1 would have a reduced contribution rate of 8.5% (and 10.5% for teachers), a reduction of .5% from current rates. This is because these employees will now generally be contributing for a longer period before they can receive their benefits.

- Eliminating early retirement subsidies –The current law encourages those who have reached the minimum retirement age to retire before reaching the maximum retirement age, because the benefit of additional years of pension outweighs the benefit they would receive if they worked longer.

- Increasing the "high 3" to "high 5" – The amount of the retiree's pension would be determined by averaging the earnings of the 5 highest earning years, rather than the current 3 highest earning years.

- Eliminating the Section 10 termination benefit – Employees terminated through no fault of their own after 20 years of service would no longer be eligible for the 1/3 termination benefit. Such employees would have to wait until they reached the minimum retirement age and would have their benefit calculated in the same manner as other retirees.

- Pro-rating benefits for those who served in more than one Group – Retirement calculations would be pro-rated based on the length of service in each Group to prevent windfalls for those who work for a short time in a Group with higher benefits at the end of their career.

- Anti-spiking rule – Except in cases of bona fide promotions or job changes, the annual increase in pensionable earnings could only increase by a maximum of 7% of the average pensionable earnings over the last two years plus inflation.

- Eliminating double dipping – An elected official receiving compensation would no longer be allowed to receive a pension at the same time.

Along with these and other provisions, the Governor's proposal would extend the period for fully funding the State Pension System from 2025 to 2040. The Governor has stated that his plan would save taxpayers $5 billion in pension costs over 30 years and $2 billion in retiree health care costs over the same period.

While the Governor's plan would continue to close loopholes in the pension system, it is unlikely to end calls for further reform in the public pension system. The Boston Globe has already called for further exploration of a switch from a defined benefit system to a 401(k) type plan, as well as looking into changing benefits for current employees. It appears that even should the Governor's proposal become law, public pension reform will remain a hot button issue in Massachusetts.

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If you have any questions or concerns about the material in this Advisory, please contact Katherine A. Hesse, Brian P. Fox or the attorney assigned to your account at (617) 479-5000.

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