

CITY OF NEWTON

BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, APRIL 15, 2009

Present: Ald. Johnson (Chairman), Merrill, Hess-Mahan, Sangiolo, Brandel, Parker, Baker and Freedman

Also present: Ald. Albright, Gentile, and Lennon

Others present: Fred Guzzi (Veterans Agent and Licensing Administrative Director), David Naparstek (Commissioner of Health and Human Services), Marie Lawlor (Assistant City Solicitor), and Shawna Sullivan (Committee Clerk)

**REFERRED TO PUB. SAF. & TRANS. AND PROG & SERV. COMMITTEES**

#101-09 ALD. LENNON, CICCONE, SALVUCCI, GENTILE & JOHNSON requesting discussion and possible City acceptance of the provision of MGL Chapter 31, Section 58A: Municipal police officers and firefighters; maximum age restrictions, which would allow candidates who are veterans to exceed the maximum age provision for original appointment by the number of years of their military services, to a maximum of 4 years. [03/31/09 @8:08 AM]

**ACTION: APPROVED 4-0 (Brandel, Freedman, Parker and Sangiolo not voting)**

**NOTE:** Ald Lennon and the Veterans' Agent, Mr. Guzzi, joined the Committee for the discussion of this item. Ald. Lennon explained that he had docketed this item after a discussion with a Newton firefighter, who is interested in becoming a police officer. The firefighter took the exam for a police officer when he was under the age of 32. He served in the military and was deployed to Iraq. When he returned from Iraq, he retook the exam in hopes of receiving a better score. When the list of the exam rankings was published, he was the first name on the list. However, he was removed from the list because when he retook the exam he was 32 years and 2 months old. When he contacted the State regarding removal, he was told that there is a provision in State law that allows veterans to exceed the maximum age requirements by four years. The City of Newton has not accepted this provision; therefore, it is not applicable to the Newton list. Ald. Lennon would like the City to accept the provision, as it provides further opportunity to women and men who serve their country.

Ald. Lennon has spoken with both the Chief of Police and the Chief of Fire and neither has any objection to the acceptance of this provision. The Director of Human Resources, Dolores Hamilton, sent an email to the Committee Clerk stating that she has no concerns about adopting the legislation. Ms. Hamilton also spoke with the Police and Fire Chiefs and they did not raise any concerns. Mr. Guzzi also felt that it was appropriate for the City to accept the provision. Ald. Merrill was surprised and disappointed that the City had yet to adopt the legislation. Ald. Hess-Mahan moved approval of the acceptance of the provision, which carried by a unanimous vote.

**REFERRED TO PS&T, FINANCE AND PROG & SERV. COMMITTEES**

#273-04(3) ALD. GENTILE requesting a re-vote of a previously submitted Home Rule Petition approved February 20, 2007 by the Board of Aldermen for special legislation to reclassify the two "dedicated fire apparatus mechanic" positions from Group 1 to Group 2 in the State Retirement System. [02/13/09 @ 4:11 pm]

**ACTION:** **APPROVED 5-0-1 (Freedman abstaining; Brandel and Sangiolo not voting)**

**NOTE:** This item was docketed, as the previously submitted request to the State Legislature for Home Rule Legislation was not acted on before their session ended and requires a re-vote by the Board of Aldermen to be re-submitted. Ald. Gentile was present for the discussion of this item and reiterated his reasons for requesting home rule legislation. He felt that there is justification to move two mechanic positions from Group 1 to Group 2 in the State Retirement System. The mechanics are present at fires to provide mechanical support and are exposed to some of the same risks as firefighters. The mechanics are currently in Group 1, which offers the lowest level of benefits. The original request was to move the mechanics to Group 4, which offers the highest level of benefits. However, it was decided that although the mechanics perform some of the same duties as the firefighters, they do not do the exact same job and that it is appropriate to reclassify the position as Group 2. The Fire Chief had joined the Committee for the original discussions of this item and voiced his support of the reclassification of the two positions. Ald. Gentile also noted that there is now a new Chairman of the Committee of Personnel and Administration and there is a fair chance the request will make it out of Committee and onto the floor of the Legislature for discussion.

Ald. Freedman inquired how the classification of a position is determined under the State Retirement System. Ald. Hess-Mahan believed that there was documentation provided to the Committee during the original discussions. A portion of the "Report of the Blue Ribbon Panel on Massachusetts Public Employees' Pension Classification System" detailing the current classification of Groups within the State Retirement System is attached. Ald. Hess Mahan moved approval, which carried.

#64-09 TOM SHEFF et al. filing on February 17, 2009, a group petition pursuant to Section 10-2 of the City Charter for a public hearing to discuss appointing a group of volunteers to: analyze the functions of the Board of Aldermen; analyze the functions of employees at City Hall; and to lay the groundwork for any Charter Commission that is elected by the citizens of Newton in the near future. ***NB: Board action shall be taken not later than three months from the date the petition was filed with the City Clerk.*** [02/17/09 @ 12:09 pm]

**ACTION:** **NO ACTION NECESSARY 8-0**

**NOTE:** Mr. Sheff joined the Committee for the discussion and explained that the item was previously discussed on March 18, 2009 and during that discussion it was determined that the Citizen Advisory Group was already doing an analysis of the functions of the employees and departments within City Hall. However, the Citizen Advisory Group is not doing an analysis of the functions of the Board of Aldermen. Ald. Freedman agreed to work with Mr. Sheff on language for a new docket item to request that a committee of citizens be formed to analyze the

functions of the Board. The new item has been filed and docketed as item #95-09. Mr. Sheff stated that he believes that the item currently under discussion is moot as it is a request for discussion only and does not request any further action. Committee members pointed out that it is still necessary to hold a public hearing as required by the City's Charter.

Ald. Johnson opened the public hearings. Mr. Sheff spoke on the importance in making the workings of the Board transparent. It is important to let citizens know what the Board of Aldermen does and how it functions. An analysis of the Board's functions will be helpful in future, if a Charter Commission is formed. Ald. Johnson stated she agrees with the concept and that she and Ald. Parker have given some thought to looking at the work of the Board and how it functions. She commended Mr. Sheff for bringing the item forward. It is her intention to take the new item up in the fall, as the Committee will be working on the budget in the upcoming months and it would not do the item justice to discuss it during the summer. As no one else wished to speak on the item, the public hearing was closed.

Ald. Baker moved no action necessary, as a new docket item was created to address Mr. Sheff's request for formation of a committee to analyze the work of the Board. The Committee voted unanimously in favor of no action necessary.

Re-appointment by His Honor the Mayor

#94-09 BRUCE HENDERSON, 42 Vaughn Avenue, Newton Highlands, re-appointed as a member of THE NEWTON COMMUNITY EDUCATION COMMISSION for a term to expire on June 30, 2011. (60 days: 6/05/09) [03/31/09 @10:47 AM]

**ACTION:** **APPROVED 7-0 (Baker not voting)**

**NOTE:** Mr. Henderson was not present but his resume was attached to the agenda. Mr. Henderson is also known to Ald. Brandel, who spoke on Mr. Henderson's reappointment. Mr. Henderson is an outstanding member of the community. He has been serving as the PTO Co-President of the Zervas Elementary School for the past two years and is very involved in Newton Girls Soccer. Ald. Brandel feels that Mr. Henderson will continue to be an excellent choice as a member of the Newton Community Education Commission. Ald. Brandel moved approval of the reappointment, which carried unanimously.

*Ald. Sangiolo requested that Mr. Henderson and some of his colleagues on the Community Education Commission be invited to the Programs and Services Committee during discussion of the Parks and Recreation Department's budget to discuss the sustainability model that is being proposed for some of the programs offered by the Parks and Recreation Department. The proposal will have an impact on the Community Education Program.*

**REFERRED TO PROG & SERV AND FINANCE COMMITTEES**

#98-09 HIS HONOR THE MAYOR requesting authorization to appropriate and expend twenty one thousand seven hundred thirty two dollars (\$21,732) from Free Cash for the purpose of funding payments to the East Middlesex Mosquito Control Project (EMMCP) to conduct mosquito larva control in catch basins to control the spread of West Nile Virus. [03/31/09 @6:11 PM]

**ACTION:** **APPROVED 8-0**

**NOTE:** The Health and Human Services Commissioner, David Naparstek, explained that each year the State Department of Public Health and the East Middlesex Mosquito Control Project evaluate whether there is an imminent risk in the coming season for West Nile Virus. The risk is determined by the number of mosquitoes found, the density of mosquitoes, whether there were positive mosquitoes for West Nile Virus and the number of birds that were positive for West Nile Virus. Based on the results of the risk determination, they make a recommendation to the City as to whether or not enhanced control is needed. The control is a product called Vectolex, which is a bacterial product that is environmentally friendly because it is specific only to the mosquitoes that transmit West Nile Virus. If that type of mosquito is not present the bacteria has no need to exist and dies off. It is the Commissioner's hope that at some point in time the risk will be negligent and the request for the funds will be eliminated, as there is no need for treatment. However, it has been recommended that the City continue to treat catch basins for mosquito larva control. Therefore, this is a request for funds to make payments to the East Middlesex Mosquito Control Project to provide mosquito control.

The Commissioner detailed how the catch basin applications are done. Bicyclists are used to distribute the packets of Vectolex into the catch basins. A packet is dropped into a catch basin and the basin is marked with spray paint to identify it as a treated basin. The treatment kills 95% of the mosquitoes. Catch basins are usually treated more than once a season so a different color paint marking is used for each treatment. Ald. Parker asked if Newton was at risk for any other type of disease spread by mosquitoes, such as Eastern Equine Encephalitis. Commissioner Naparstek responded that Newton is not a high-risk community for any other mosquito borne diseases, although the City does treat for nuisance mosquitoes to keep the population down. With that, Ald. Freedman moved approval, which carried unanimously.

#65-09 ALD. GENTILE, SALVUCCI, LENNON, CICCONE AND JOHNSON proposing a Resolution to His Honor the Mayor to reduce aldermanic salaries by 10% in the FY10 budget. [02/24/09 @ 9:31 AM]

**ACTION:** **NO ACTION NECESSARY 5-2 (Johnson and Merrill opposed; Sangiolo not voting)**

**NOTE:** This item was discussed previously on March 4, 2009; however, Ald. Gentile was unable to attend the meeting and the item was held. Ald. Gentile joined the Committee for discussion on the item. He explained that he docketed the item because due to the economic climate city employees are facing pay freezes to avoid massive layoffs. Ald. Gentile felt that it was appropriate for the Board to take a modest action and show support and he thought a 10% pay reduction for the upcoming fiscal year would accomplish that. Ald. Gentile has since

learned that if the item were approved it could not take effect until January 1, 2010, which would make it a 5% cut. It would result in less than a \$500 per Alderman reduction for the year as it would only be for half a year. It was his hope that it would have a beneficial effect during union negotiations if the item could be approved before the proposed budget discussions. In speaking with some of his colleagues regarding the item, several agreed and opted to co-docket the item.

Ald. Parker stated that if the compensation is reduced or if there is no compensation, it will be less likely that a widespread representation of the community will run for Aldermanic seats. The Board will be made up of wealthy Newton residents that can afford to donate their time to the City. He pointed out that most of the salary is used in serving constituents. The members of the Board work very hard for essentially no pay. He would not support an increase but does not support a decrease. Ald. Baker feels that the Board's salary is essentially frozen, as it has remained unchanged for 10 years. It might be appropriate to publicize that fact. He also pointed out that individual Aldermen could decline their salary or a portion of their salary if they are so inclined. He was also concerned about the legal process of making this kind of reduction for only six months in the middle of the fiscal year. Ald. Freedman thought that the idea was well intentioned but that the Board is already making a sacrifice as the Aldermen have not received a pay increase in at least the last ten years. In addition, the reduction in Board salary would not make any type of substantial difference in terms of money for the budget.

Ald. Johnson was unaware that there was any compensation when she ran for the Board. She feels that it is important that everyone should make sacrifices in these financial times. She had thought about suggesting that the Aldermen not accept any salary. Ald. Lennon also supports the item, as it is appropriate for the Board to make a monetary sacrifice, as the City is asking all of its employees to sacrifice. Ald. Merrill also supports the decrease and has always looked at being an Alderman as a public service. He feels the time is right to indicate that the Board is making a sacrifice.

Ald. Gentile does not disagree that the Board works hard for little compensation. He was just hoping to make a symbolic statement to show support to the city employees. He did not want this to turn into a large discussion and create greater issues. He does not want to have a debate on the floor of the Board regarding this item. Therefore, he would like to see the item voted no action necessary. Ald. Johnson and Ald. Merrill cannot support no action necessary, as they felt that it was worthy of a discussion on the floor of the Board. Ald. Baker moved no action necessary, which carried.

#### **REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES**

#87-09 ALD. SANGIOLO, BRANDEL, FREEDMAN AND HESS-MAHAN requesting a Home Rule Petition to allow the City of Newton to require elected officials to contribute a higher percentage rate for health insurance benefits than is required for other employee groups. [03-10-09 @ 9:17 AM]

**ACTION:** **APPROVED 5-1-1 (Baker opposed; Merrill abstaining; Parker not voting)**

**NOTE:** Ald. Brandel explained that this item came out of the previous discussion concerning a proposed reduction in Aldermanic salaries for the next fiscal year. The Aldermen

are classified as part-time employees and currently receive the full-time benefit of health insurance. When you look at the budget and Citizen Advisory Group reports, it is very apparent that health care benefits have a huge impact on the city's budget. One of the things that Ald. Brandel and other Aldermen have looked at is whether it is fair for part-time employees to receive a full-time benefit from the city. This item is intended to be a first step towards a larger policy discussion and possibly a larger action. The Board would be taking the lead by reclassifying its' health care treatment to make it in step with a part-time employee. It is yet to be determined what the ratio would be in terms of cost to the city and the Alderman.

Ald. Hess-Mahan thought the intention of the docket item applied only to elected officials. He did not realize that it was the intent to include other part-time groups into the discussion and is not sure he is now in agreement with the item. Ald. Hess-Mahan was looking at this as a symbolic gesture. Ald. Brandel responded that this was not intended to be a symbolic gesture but was intended to be a first step of a larger policy discussion.

Assistant City Solicitor, Marie Lawlor, joined the Committee for the discussion. Ms. Lawlor explained that health insurance benefits are governed by Massachusetts General Law Chapter 32B, which is the mechanism that the State empowers municipalities to provide health insurance for employees. It is a very convoluted statute and very difficult to understand. She stated that the distinction is not part-time versus full-time in terms of what you can do for percentage of employee contribution. Eligibility of Aldermen or any elected official for health insurance is included in the definition of employee in Chapter 32B. Employee under that statute includes anyone in the service of the government, who receives compensation whether employed, appointed, or elected. There is a proviso that states if the employee works a minimum of 20 hours per regular work week. There is an exception for elected officials as to the 20-hour requirement, which states that an elected official is eligible regardless of the number of hours worked because the determination can be made that they are going to be deemed to work over 20 hours a week. The exception is a may. Later in that same section, it states that the Mayor of the city or town determines whether elected officials are going to be eligible. The Law Department had an occasion to research this issue for another purpose and found that there was no written Mayoral determination made. However, the policy of the city has been this way for many years that it is pretty fair and reasonable to say that at some point a Mayor determined that elected officials would be eligible for health benefits. There are two ways that Aldermen could be eligible for health benefits. The first is through Mayoral determination or each Alderman would have to go through an individual analysis to determine if they worked 20 hours per week. It has always been the policy of the city that elected officials are eligible for health insurance.

Ms. Lawlor went on to address what the Aldermen can do in terms of the percentage rate paid by elected officials for health insurance. In general, Chapter 32B requires uniformity of contributions rates that employees pay towards the monthly cost of the health insurance. There are two types of health insurance. Under indemnity plans, the law requires that the rates be uniform across all employees; however, the city no longer offers indemnity plans. The city offers HMO plans and for HMO coverage, the law states that the employee must contribute between 50% and 10% of the cost. The rate within that range is determined by the local process but for unions alone the rate must be 10% unless a different rate is agreed to within that range by

the collective bargaining process. For all other active non-union employees the rate is set by the normal political process and must be uniform with those groups. For the Aldermen to set a different contribution rate for elected officials it would require a special act. Ms. Lawlor prepared draft language, which was attached to the agenda for review. Ms. Lawlor pointed out that the Aldermen need to make a determination on who should be included under the definition for elected officials in the draft language.

Ald. Baker stated that there are members of the Board that do not take advantage of the health insurance benefit. He has some misgivings regarding making an exception in a policy, which is ultimately going to be part of the compensation that is negotiated with the collective bargaining process that is an executive and not a legislative function. It seems to be getting into something far beyond the scope of what was intended. He respectfully cannot support the item. Ald. Hess-Mahan thought the item was going to be much simpler, as it turns out it is a far more complex issue. He is currently unable to support the item, which does not mean he does not think the Board should be taking the lead by asking itself to pay higher premiums. He feels that the employees of the city should also be asked to pay higher premiums. However, he does not associate himself with the comments about taking health insurance benefits away from part-time employees. Ald. Sangiolo responded that the item before the Committee only addresses elected officials. She felt that the Mayor should not be included as part of the request for special legislation language to require elected officials to contribute a higher percentage rate for health insurance benefits, as the Mayor is a full-time employee. Ald. Hess-Mahan was willing to support the item, as long as it only includes the Board and School Committee. Ald. Freedman feels that the growth of health insurance costs is killing the city's budget. The current trend suggests that the costs of health care benefits are going to rise between 11% and 12% next year. He pointed out that the city will be paying between \$15 and \$16,000 for a part-time person's benefits, which is approximately what a part-time person is being paid. He thinks it is a statement to say that the Board is willing to take some reasonable decrement in what the City is contributing towards health benefits. Ald. Parker suggested looking at other ways to compensate part-time employees instead of health insurance benefits. Ald. Gentile felt that health insurance might be an incentive to run for the Board or School Committee. He would like some formal input from the School Committee before any action is taken on the item. Ald. Freedman agreed that there should be an effort to get some input from the School Committee and suggested sending a letter. Ald. Sangiolo suggested that the item be moved subject to second call in order to move it out of committee. Ald. Gentile reminded the Committee that the item is also referred to the Finance Committee, which should allow ample time to get a response from the School Committee before the item reaches the floor of the Board. Ald. Freedman moved approval of the item with the exclusion of the Mayor from the request for special legislation to allow the City of Newton to require elected officials to contribute a higher percentage rate for health insurance benefits than is required for other employee groups.

#171-04(2) ALD. HESS-MAHAN requesting a re-vote of a previously submitted home rule petition approved February 20, 2007 by the Board of Aldermen for special legislation authorizing local voting rights for permanent resident aliens residing in Newton. [02/13/09 @ 4:11 pm]

**ACTION:** **APPROVED 6-0-2 (Brandel and Freedman abstaining)**

**NOTE:** The original request for Home Rule Legislation was approved by the Board of Aldermen on February 20, 2007 and forwarded to the State Legislature. The item and was scheduled for public hearing before the appropriate legislative committee. Unfortunately, Ald. Hess-Mahan and other proponents were not notified of the public hearing. After the public hearing, the item was sent to study and was not acted upon before the session ended making it necessary for the Board of Aldermen to re-vote the item.

Ald. Freedman inquired if any other communities had attempted to get or had gotten Home Rule Legislation for local voting rights for permanent resident aliens. Ald. Hess-Mahan responded that no community has enacted legislation but they have applied for Home Rule Legislation. Ald. Brandel asked if it would be prudent to hold another public hearing before re-voting the item. Ald. Baker stated that the original item was one of the most extensively discussed items and the Committee and the Board worked hard to resolve as many issues as possible during the original discussions. Ald. Johnson also felt that a new public hearing was unnecessary. Ald. Freedman asked if the Election Commission had a chance to weigh in on the item during the original discussions. Ald. Hess-Mahan explained that the Commission was consulted and although it would require some additional paperwork, they did not object to the possibility. Ald. Baker moved approval of the item, which carried.

Respectfully Submitted,

Marcia Johnson, Chairman



## 2. OVERVIEW OF THE CURRENT SYSTEM

Massachusetts public employees are covered by a defined benefit pension plan that is administered by 104 local retirement boards, the Massachusetts State Retirement Board, and the Massachusetts Teachers Retirement Board. The Public Employee Retirement Administration Commission (PERAC) is responsible for the regulation and oversight of all boards and all the systems are governed by Chapter 32 of the Massachusetts General Laws. As shown in Table 1, the system now includes more than 300,000 active workers and about 180,000 retirees.

**Table 1. Participants in Massachusetts Public Employee Retirement System**

System	Participants	
	Active	Retired
State*	83,178	50,593
Teachers**	88,027	42,164
Local***	138,200	86,000
Total	309,405	178,757

Source: Personal communication with James R. Lamenz, PERAC, Actuary.

\* As of 1/1/06.

\*\* As of 1/1/05.

\*\*\* Based on date of most recent valuation which varies by system.

The system is funded by a combination of employee contributions, investment returns, and state or local funding. Employees' contribution rates are based on the date they joined the system (see Table 2). The State began to raise the employee contribution rate during the 1970s, but the Supreme Judicial Court ruled that the rate was part of a contract so that rate hikes were limited to new employees.<sup>6</sup> The rate for new hires has been raised repeatedly so that contribution rates within the system now range from 5 percent to 12 percent, depending on the date of hire.

**Table 2. Contribution Rates in Massachusetts Public Employee Retirement System**

Date of Hire	Contribution Rate
Pre-1945	0%
1945-74	5%
1975-78	7%
1979-83	7% + 2 % over \$30,000
1984-96	8% + 2 % over \$30,000
1996-present	9% + 2 % over \$30,000
Teachers under "Retirement Plus"	11%
State police hired after 7/1/96	12%

Source: Commonwealth Actuarial Valuation Report. 2005.

<sup>6</sup> Opinion of the Justices, 364 Mass. 847 (1973).

**Table 4. Benefit Accrual Rates (cont.)**

41	0.1	0.1	1.1
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Source: Commonwealth Actuarial Report. 2005.

Table 5, which presents the distribution of the number, age, tenure, salary, and benefits for State employees retiring in 2005, shows the advantage in terms of benefits, retirement age or both of being in a higher group.

**Table 5. Number, Age, Tenure, Salary, and Benefits of State Employees Retiring in 2005**

Classification	Number	Median Age	Median Service	Median Salary	Median Benefit*
All	1,295	58.5	21.8	\$55,655	\$26,958
Group 1	799	60.0	20.2	\$51,841	\$19,691
Group 2	225	60.3	22.6	\$48,765	\$32,647
Group 3	52	55.2	27.4	\$80,731	\$55,038
Group 4	219	53.5	23.8	\$59,013	\$32,814

Source: PERAC disclosure and personal communication with James R. Lamenza, PERAC, Actuary.

\*Part of the difference in benefit amounts reflects differences in retirement ages relative to the age at which the 2.5 percent factor applies. For example, those in Group 1 have an average retirement age of 60 – five years before the 2.5 percent factor is applicable, while those in Group 4 have a retirement age of 53.5 – one and half years before the 2.5 factor applies.

### The Classification Controversy

Although all the systems are affected by classification, the main controversy centers on State employees. Teachers fall under Group 1 (see Table 6). Teachers with long service participate in a program called "Retirement Plus," which – in exchange for a higher contribution – allows teachers with 30 or more years of service to have their pensions increased by 2 percent for each year of service in excess of 24.<sup>11</sup> But request for reclassification is not a teachers' issue. Similarly, very little reclassification is initiated by the local retirement boards, other than occasional requests within county or regional retirement systems. In fact, Commissioner Macdonald noted that in his six years on a local board, he had never seen any reclassifications. Thus, most of the reclassification issues arise at the State level.

**Table 6. Distribution of Active Participants, by Group**

Group	State	Teachers	Local
1	64,574	88,027	101,500
2	10,677	-	1,370
3	2,191	-	-
4	5,736	-	34,000
Total	83,178	88,027	136,870

Sources: Personal communication with James R. Lamenza, PERAC, Actuary.

<sup>11</sup> Teachers already in the system were able to opt in, and if near retirement were able to pay 11 percent of previous five years of salary in a lump sum to qualify immediately for higher benefits. The Panel did not address the Retirement Plus option, since its charge was limited to classification

At the local level most classification occurs at the date of hire as set out in state law. With the exception of the State police, State level classification occurs when employees announce their plans to retire.<sup>12</sup> At that time, they inform the State Retirement Board and request to be placed in a certain group. The Board's Classification Committee reviews the requests and makes a determination. Based on the current language of the statute and governing case law, classification is then based on the most recent position that the employee has held for 12 calendar months. That is, an employee requesting Group 2 or Group 4 status must show that he has been employed in that capacity for 12 months, and his agency must certify his position and duration of employment. If the Classification Committee has no issues, it will approve the request. If the Classification Committee does not agree with the request, the claim is submitted to the State Retirement Board. The Board's Classification Committee reviews 30-50 cases per month and approves a large majority. It takes issue with only 10-20 percent of the cases.

People who want to change their individual status or the status of everyone with similar job titles might take their case to the Legislature. For example, if social workers asked to be put in Group 2, they might be denied by the State Retirement Board. At that time, the social workers might then file legislation to be included in Group 2. Last year the Public Service Committee considered 124 bills regarding classification and benefit levels, of which 61 were to move a group of employees into a higher classification, 7 were to enrich the benefits of a specific individual, and the remaining bills primarily dealt with petitions for enhanced benefits for various groups. The lack of clear criteria to decide which individuals or groups should be in Group 2 or 4 other than the job titles listed in the statute makes it difficult for both the retirement boards and the Public Service Committee to address these petitions.

Individuals who switch to a higher group for the last few years of work, or even the last 12 months, will get a benefit calculated as though they were in that group classification for their entire work history and conversely, employees who switch to a job with a lower group classification will lose the higher benefit associated with the higher group.

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<sup>12</sup> The Supreme Judicial Court in the case of Maddocks v. Contributory Retirement Appeal Board & State Retirement Board, 369 Mass. 488 (1976) ruled that the group classification provisions within G.L. c.32 indicated a legislative intent that the classification be based on current job requirements at the time of retirement. As such the Court held classification was properly based on the sole consideration of job duties at the time of retirement. Additionally, state employees frequently move between positions, making the classification at hire irrelevant for group determination at time of retirement.