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MEMORANDUM

TO: Municipal & Education Clients

FROM: MHTL Municipal Law Group
MHTL Education Law Group

DATE: June 4, 2002

RE: Early Retirement Incentive Program - *Chapter 116 of the Acts and Resolves of 2002*

On May 15, 2002, the Acting Governor signed into law Chapter 116 of the Acts and Resolves of 2002, "An Act Providing for Local Government Workforce Reduction Through an Early Retirement Incentive Program for Certain Employees". The legislation contains an emergency preamble and is effective immediately. It authorizes early superannuation retirement for eligible municipal, district, county, or authority and other specified employees, including, certain regional school district employees and certain employees of the Essex Agricultural School. This is local option legislation which requires acceptance by the specific entity to be effective.

The following is summary of the legislation:

- Eligible employees are required to have by the date of retirement either 20 years of creditable service at any age; or, 10 years of creditable service and be at least 55 years of age if membership began on or after January 1, 1978 and if a member of Group 1 or Group 2; or, be at least 55 years of age if membership began prior to January 1, 1978.

- Acceptance of the legislation is required by both the “legislative authority” and by the “executive authority” of a particular entity by November 1, 2002, as defined below:

City: The city council (legislative), unless otherwise provided by charter, and the mayor (executive);

Town: The town meeting or town council (legislative) and board of selectmen (executive). **Please note, the legislation provides that if the legislative authority in a town fails to accept the legislation by June 30, 2002, then the executive authority in a town may accept “without the approval of the legislative authority”.**

County: The county advisory board (legislative); the county commissioners (executive). In Suffolk, Nantucket and Barnstable Counties the county commissioners are both the legislative and executive authority.

Authority: The specific governing body is both the legislative and executive authority.

District: The district meeting, except that in a regional school district the regional district school committee is both the legislative and executive authority.

- If a special town meeting is called for purposes of acceptance of this legislation, at least 7 days notice must be given. A special town meeting shall be called if requested in writing by 200 registered voters or by 10% of the total number of registered voters in a town, whichever number is lesser. Such meeting must be held no later than 30 days after receiving the request.
- The early retirement incentive program shall be administered by the appropriate city, town, county, state or regional retirement system and each system shall promulgate regulations to implement the program.
- The appropriate “executive authority” may limit the total number of employees for whom it will allow the early retirement, or the total number of employees within each group classification for whom it will allow the early retirement. If so limited, employees with greater years of creditable service shall be given preference over employees with lesser years of creditable service.

- Eligible employees will be able to “add” up to 5 years of creditable service, or up to five years of age, or a combination of additional service and years of age up to 5 to qualify. The “executive authority” may limit the amount of creditable service, age or combination of both allowed.
- The “executive authority” is empowered to determine the date by which applications must be filed, so long as the date is not later than December 2, 2002. The “executive authority” shall determine the employee’s date of retirement, which shall be no earlier than the effective date of the legislation (May 15, 2002) and no later than December 31, 2002. Eligible employees of city or town retirement boards shall be retired 30 days after the date determined by the executive authority. The retirement date for eligible employees of a county or regional retirement board shall be January 30, 2003.

If you have questions regarding the legislation, please call Murphy, Hesse, Toomey & Lehane at (617) 479-5000.