

**INFORMATION FOR DIVORCE ATTORNEYS AND  
MEMBERS CONTEMPLATING DIVORCE REGARDING  
THE HOLYOKE CONTRIBUTORY RETIREMENT SYSTEM\***

The Holyoke Retirement System is a public pension plan for employees of the City of Holyoke. It is one of 104 Massachusetts public pension systems created and governed by MGL c. 32. It is a governmental contributory defined benefit plan exempt from ERISA. Most ERISA rules do not apply.

Membership is mandatory for covered employees. Members do not participate in Social Security while employed by governmental units covered by the Massachusetts Public Pension Law (MGL c. 32). Under current Federal laws, Social Security benefits may be offset or reduced by a governmental pension.

Members must contribute a statutorily determined percentage of salary (ranging from 5% to 9% depending on date of membership). The funds, plus statutory interest, accumulate in the members' Annuity Savings Fund. A member cannot withdraw or borrow against the funds while employed. Annuity Savings Fund information is available by a member's request or a non-member's subpoena. The Annuity Savings Fund is **NOT** the measure of the value of the member's potential benefit.

To qualify for benefits, a member must reach the age of 55 (or age 60 for membership after 4/2/2012) with at least 10 years creditable service, or have at least 20 years of creditable service, or become disabled. Superannuation (non-disability) benefits are determined by a statutory formula based on age, years of service and the average of the member's 3 highest consecutive years of salary (or 5 years for membership after 4/2/2012). The maximum benefit is 80% of the 3 or 5 year average salary. Accidental disability benefits are usually 72% of salary, with no minimum age or service. Benefits are paid monthly to retirees for life, with survivor interests depending on the payment option selected at retirement.

The plan offers 3 payment options with more survivor benefits available as the retirement allowance for the member decreases. Benefits are paid through a combination of the member's contribution to the Annuity Savings Fund (the "annuity") and the taxpayer's monies (the "pension").

Retirement benefits may be directed to a former spouse who has not remarried upon the member's retirement by means of a domestic relations order ("DRO"). However, it should be noted that domestic relations orders must be consistent with MGL c. 32. Many provisions that are common in private sector Qualified Domestic Relations Orders (QDROs) are inappropriate for a public pension plan. Private plans are subject to ERISA standards and provisions which are inapplicable to governmental plans. Use of "QDRO" forms or language for ERISA-type plans will result in an order that cannot be implemented under MGL c. 32, which regulates Massachusetts Public Pension Systems.

Although a member's annuity savings fund amount is identifiable, it is NOT the measure of the value of the member's potential benefit. The pension portion of the benefit is not determined until retirement. Although an estimate of the retirement allowance may be provided, any such estimate is based on certain assumptions that should be agreed upon by the parties involved. Estimates provided by the Retirement System are measures of future value. Calculations of "present" value should be made by an expert advisor (actuary) to the parties. The Retirement staff can assist by providing data and explanations of benefits and options to the actuary, but do not provide present value calculations.

In general, current data of annuity savings, creditable years of service, current average 3 (5)-year salaries can be provided. Estimates of member's benefits and payment options can also be provided.

If a member is currently eligible to retire, an estimate of benefits based on current salary years of service, and age can be provided.

If a member is either not eligible to retire, or an estimate of potential future benefits is requested, such estimates of benefits can be provided. However, assumptions on which such estimates are based must be stipulated and should be agreed upon by the parties involved. Estimates are measures of future potential benefits, NOT present value of benefits.

Calculations of "present" value are complicated and should be made by an expert advisor (actuary) to the parties. "Present" value calculations will vary widely depending on methodology and assumptions used.

Assumptions of future interest rates, salary growth, annuity savings growth, future statutory interest rates, age of retirement, etc... should be agreed upon by the parties involved.

If both parties have retirement accounts being evaluated and compared, it is important that the same assumptions and methodology be used to evaluate both plans to be comparable. We highly suggest using a single actuary.

If you are considering the use of a DRO, it must be consistent with M.G.L. Chapter 32.

Please contact us for additional information and requirements. You must submit any DRO to the Holyoke Retirement System **PRIOR** to submission to the Courts for approval.

Please also see:

- Examples of Unacceptable Provisions
- Overview of Issues to Address
- Sample Domestic Relations Order

*\* Adapted from materials written by Carol E. Nesson, Esq., the Boston Retirement Board, the State Retirement Board, and Barbara Phillips, Esq. of the Public Employee Retirement Administration Commission. 8/3/2001*