

**Newton Retirement Board
Funding Policy Statement
November 22, 2022**

Approved by the Newton Retirement Board on November 22, 2022

The Funded Ratio is a measure of funding status, and its history is a measure of funding progress. It measures the Actuarial Value of Assets (AVA) against the Actuarial Accrued Liability (AAL) as of the measurement date. At January 1, 2014, the measurement was as follows:

	Amount in <u>millions</u>
AVA	\$ 279.8
AAL	\$ 551.1
 Funded Ratio	 50.78%

In the spring of 2014 the Newton Retirement Board (NRB) adopted a 2029 Funding Schedule based upon an 8.5% annual increment in the City's annual appropriation, commencing with the City's FY2016 enacted budget (the budget year beginning July 1, 2015 and ending June 30, 2016). Concurrently, the NRB set an Investment Return assumption of 7.65%. The NRB and the City government took these actions jointly for the express purpose of accelerating funding progress.

Due to investment results and other experience that differed from actuarial expectations, successive changes were made to this original Funding Policy in order to maintain the 2029 Funding Schedule. The annual city appropriation increment was revised to 8.75% commencing with the City's FY2017 budget and then to 9.6% commencing with the FY2018 budget. Based upon the January 1, 2017 valuation, the Funding Schedule was extended to 2030.

The adoption of a Funding Schedule is the sole responsibility of the NRB. Concomitant with adoption of the Funding Schedule, the NRB has sole authority to determine and certify, based on actuarial reports of its independent actuary, the amount of appropriations due annually from the City of Newton to fund the various accounts of the retirement system. This authority arises from three Special Acts enacted by the Massachusetts General Court.¹

The Funding Schedule adopted pursuant to the January 1, 2017 valuation (a 2030 schedule with 9.6% appropriation increases) has been maintained through the

¹ Acts of 1928, Ch. 355; Acts of 1947, Ch. 529; Acts of 1951, Ch. 614. For a full discussion of the City's obligation to pay the duly certified amount of appropriation, see Memo to the NRB dated October 25, 2022 from Board Counsel.

January 1 2022 valuation - a six-year span. During this same time period, the NRB has lowered the assumed rate of return from 7.50% to 6.90%.

At January 1, 2022, the Funded Ratio of the Newton Retirement System is as follows:

	Amount in <u>millions</u>
AVA	\$ 472.0
AAL	\$ 773.2
Funded Ratio	61.05%

This Funded Ratio places the Newton Retirement System in the 3rd quartile of the 104 local public pension systems organized in accordance with Massachusetts General Laws Chapter 32 and operating under the supervision of the Public Employee Retirement System Administration Commission (PERAC).

STATEMENT OF FUNDING POLICY

The Funding Policy of the Newton Retirement Board is stated as follows:

- Priority will be given to maintaining the 2030 Full Funding target date, recognizing that the City's objective is to commence major funding of Unfunded Retiree Health Plan benefits as of its Fiscal Year 2031 budget, after full funding of Unfunded Pension Plan benefits has been achieved;
- The Newton Retirement Board expects to maintain the 9.6% annual increase in the City appropriation until full funding is attained;
- The Newton Retirement Board understands that the City's budget planning cannot accommodate annual appropriation increases that exceed 9.60%. If experience develops such that appropriation increases of 9.6% per year will not fully fund the System by the 2030 target date, the Board will carefully consider an extension of the 2030 target date.
- Upon attaining an actuarially fully-funded position, in the event that subsequent investment performance and/or adverse changes in the measurement of pension liabilities creates an underfunded position the NRB will consult with its actuary and the City's Executive Office prior to its adoption of a Funding Schedule to restore full funding status.

MEMORANDUM OF LAW

To: Members of the Newton Retirement Board
From: Marie M. Lawlor, Board Counsel
Date: October 25, 2022
Re: Review of Board authority on appropriations funding pursuant to certain Special Acts

Issue

At its last meeting, the Board inquired as to its authority to set the amount of appropriations due from the City and why the PERAC Actuary does not inform the City as to the amount due for appropriation as it does for other retirement systems. The Board also inquired as to what would happen if the City refused to pay some or all of the appropriation.

Short Answer

Unlike every other retirement system in the Commonwealth, the Newton Retirement Board ("NRB") derives its authority from three special acts enacted in 1928, 1947 and 1951. A review of these acts make clear that the NRB has authority to hire an actuary independent from PERAC, and has authority (based on reports of its independent actuary rather than the PERAC actuary) to certify appropriations due from the City in order to fund the system. In the event the City refuses to pay certified appropriations, the City assessors, by law, must include that amount in the next tax levy. The NRB may also recover the unpaid appropriation amount in an action of contract.

Discussion

It will be helpful to briefly review¹ the three special acts which pertain solely to the Newton Retirement System. They are Acts of 1928, c. 355, as amended by Acts of 1947, c. 529, as further amended by Acts of 1951, c. 614.

1. Acts of 1928, Chapter 355 (the "1928 Act"):

In a nutshell, the 1928 Act established a contributory retirement system for Newton's employees, to be managed by a Newton Retirement Board ("Board"), eighteen years before G.L. c. 32 ("Chapter 32") became effective in 1946. The 1928 Act set forth parameters for employee retirement contributions and benefits as well as funding and financial management. Section Fifteen (1) – (5) of the 1928 Act established five funds for the system at that time: the annuity savings fund; the annuity reserve fund; the pension accumulation fund; the pension reserve fund; and the expense fund. Section Fourteen of the 1928 Act authorized the Board to designate an actuary, who among other duties, advised the Board on adoption of mortality, service and other tables as necessary, and rates of contribution payable by the City of Newton. Section Fifteen (6) authorized the Board to certify to the Mayor in October of each year the amount necessary to pay the various funds of the system, and directed that amount to be included in the

¹ As Judge Rudy Kass wrote in a landmark case in which the court ruled that a municipality cannot control and must pay the duly certified expense fund of a retirement system budget, "... [o]ur review cannot skirt a stolid – and no doubt stupefying – march through the relevant statutory territory." *Everett Retirement Board v. Board of Assessors of Everett, et al.*, 19 Mass.App.Ct. 305 (1985).

budget for the following fiscal year. The Act also made clear that the funds to meet costs of administering the system "... shall be derived from appropriations of the city from the annual tax levy." (Section 14(4)).

2. Acts of 1947, Chapter 529 (the "1947 Act"):

The 1947 Act amended the 1928 Act by changing certain benefit procedures and employee contribution rates. It also added a sixth fund, the Special Reserve Fund.

3. Acts of 1951, Chapter 614 (the "1951 Act"):

The 1951 Act is pivotal to the current inquiry. This Act amended the first two Acts by accepting the provisions of G.L. Chapter 32 for the Newton Retirement System, subject, however to modifications provided in the Act.

The effect of this act was to make Newton's retirement benefits consistent with the rest of the state systems. Two modifications pertinent to our funding appropriations inquiry are as follows:

1. In lieu of the pension fund provided for other systems in Chapter 32, for the Newton Retirement System retained the three funds established in the 1928 and 1947 Acts: the pension accumulation fund; the pension reserve fund, and the special reserve fund. (1951 Act, Section 3 (1)).

2. The Board may employ its own independent actuary to "... make all estimates or determinations desired by the Board or required by the state retirement law or this act with respect to valuation of the assets or liabilities of, or the amount of any appropriation ..." as would otherwise be provided to other systems by the state (PERAC) actuary. (1951 Act, Section 6).

In addition, the Section 2 of the 1951 Act specifically provides that Chapter 32, s. 22 (7) with respect to the pension funds of systems shall apply in Newton. That section provides a remedy in the event the City fails to pay the duly certified amount of appropriation: "If a governmental unit fails to include any amounts ... certified [by a retirement board] in its appropriations for such fiscal year, the assessors or other taxing authorities shall nevertheless include such amounts in the next tax levy. All amounts so certified shall be a legal obligation of any such governmental unit and may be recovered in an action of contract by the retirement board of any such contributory retirement system." G.L. c. 32 §22(7) (c)(iv).