

Testimony in Support of SB 448

My Name is Marilyn Cruz-Aponte and I thank the Co-chairs and committee members of the Planning and Development Committee for the opportunity to speak today in support of Senate Bill 448 (SB 448), AN ACT CONCERNING RETIREMENT DEFINITIONS OF MUNICIPALITIES AND PARTICIPATING MUNICIPALITIES RELATING TO THE MUNICIPAL EMPLOYEES' RETIREMENT FUND. (MERS).

The language in SB 448 is intended to clarify statute language regarding pension eligibility that was changed by the Retirement Commission in a 2011 administrative action. The Retirement Commission took this action on its own, changing a practice that had been in effect for 40 years, a practice the Legislature had acquiesced to repeatedly amending MERS without changing the interpretation.

In November 2012 the Retirement Commission sought an opinion regarding the 2011 interpretation from Connecticut's Attorney General George Jepson. On November 2, 2012 an opinion was issued by Attorney General Jepson that is attached to my testimony for Committee review. The Opinion makes clear that the statute is not clear. In light of this, the opinion counseled the Retirement Commission against deviating from historical applications of statutes without legislative direction and, furthermore, counseled a return to pre-2011 administrative interpretations until legislative review was completed.

In my particular situation, I made a decision based on the historical Retirement Commission return-to-work policies and practices that clearly allowed an employee to collect a MERS pension when re-employed so long as the new job was in a non-MERS position. I earned a MERS pension while working in New Britain; went to work in a different community (Hartford) in a non-MERS, non-union position.

However, when I initiated application for my earned pension in November 2011, I was denied and told that a new 2011 administrative interpretation made me ineligible. I was further informed that only the Legislature could clarify continuation of historical practices.

To that end, I pursued clarifying language during the 2013 Legislative Session through SB Bill 740. The 2013 SB 704 had the same language clarification as the current 2015 SB 448. The 2013 bill was evaluated by the Legislative Office of Fiscal Analysis (OFA) as having no state impact or fiscal impact to municipalities. It passed with 36 senate votes (of a possible 36) and 141 votes (of a possible 142). Unfortunately the 2013 bill was vetoed and thus the language clarification was not achieved.

However, after the veto, I initiated an appeal through the Retirement Commission during the Summer of 2013. I received my pension in September 2013 including retroactive payments to my date of eligibility-May, 2012.

Unfortunately, in October 2014, the Retirement Commission reconsidered my eligibility again. Again the Commission revisited its interpretation and decided to "strictly" interpret the 2011 administrative action. The Commission informed me that denial of my pension benefits was being considered. I was invited to a hearing in January 2015 to present my case for retaining my MERs pension. I have not yet received a decision.

The Legislature should stop the "we're going this way, no, we are going that way" process that the Retirement Commission has taken in interpreting this statute. By enacting the clarifying language provided by SB 448, the Legislature can stop the Commission from changing direction every few years and bring certainty and consistency to retirees and municipalities.

I respectfully request passage of SB 448 as validation of the Legislature's longstanding understanding of past practices and policies associated with reemployment and pension eligibility.

Signed: Marilynn Cruz-Aponte 163 Bradford Walk New Britain CT 06053