

HOUSE No. 3189

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing for an employee retirement incentive program.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith for a fair and orderly manner in which the number of executive department employees may be reduced in order to decrease expenditures by the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to
2 provide for an alteration of purpose for current appropriations and to meet certain requirements
3 of law, the sums set forth in this section are hereby appropriated from the General Fund, unless
4 specifically designated otherwise in this section, for the several purposes and subject to the
5 conditions specified in this section and subject to the laws regulating the disbursement of public
6 funds for the fiscal year ending June 30, 2015. These sums shall be in addition to any amounts
7 previously appropriated and made available for the purposes of those items.

8 SECTION 2A.

9 TREASURER AND RECEIVER GENERAL

Office of the Treasurer and Receiver General

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0612-0001 For the state board of retirement to meet the obligations required of the board to implement the early retirement incentive program established under this act and any expenses incurred related thereto.....\$500,000

SECTION 3. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for executive department employees, hereinafter referred to as the retirement incentive program, in accordance with this section. For the purposes of this act, an executive department employee is a person who is employed by the office of the Governor, or by an executive office of the commonwealth, as defined by section 2 of chapter 6A, or by an agency, bureau, department, office or division of the commonwealth within or under the control of the governor or a secretary of an executive office. Words used in this act shall have the same meaning as those in chapter 32 of the General Laws unless the context clearly provides otherwise.

(b) In order to be deemed eligible by the state board of retirement for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the executive department as of the effective date of this act; (ii) shall be a member in service of the state retirement system in accordance with paragraph (i) of clause (a) of subdivision (1) of section 3 of chapter 32 of the General laws as of the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32 as of the effective date of this act; (iv) shall be eligible to receive a superannuation retirement allowance in the absence of this retirement incentive program in

32 accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of
33 said chapter 32 as of the effective date of this act; and (v) shall have filed a timely application
34 with the board in accordance with section 4.

35 (c) Notwithstanding the foregoing, the following employees shall not be eligible to
36 receive any benefit from the retirement incentive program: (i) employees whose compensation,
37 in any part, is funded from a federal grant, trust, or capital appropriation, each as defined in
38 section 1 of chapter 29 of the General Laws; (ii) elected officials; (iii) employees who are
39 eligible for the retirement incentive program established pursuant to section 40 of chapter 79 of
40 the acts of 2014; and (iv) employees or members of the state retirement system who, as of the
41 effective date of this act, are not contributing to the retirement system pursuant to section 90G3/4
42 of chapter 32 of the General Laws, or who have not completed reinstatement pursuant to section
43 105 of said chapter 32. In addition, employees eligible under this act may not utilize the spousal
44 benefit established pursuant to section 322 of chapter 149 of the acts of 2004 in combination
45 with the benefit options provided by section 5 of this act. The Massachusetts Transportation
46 Trust Fund established pursuant to section 4 of chapter 6C of the General Laws shall not be
47 deemed to be a “trust” for the purposes of this paragraph and employees whose compensation is
48 paid from the Massachusetts Transportation Trust Fund shall be eligible to receive a benefit from
49 the early retirement incentive program if they otherwise satisfy the requirements for eligibility.

50 SECTION 4. Notwithstanding section 5 of chapter 32 of the General Laws, in order to
51 receive the retirement benefit provided by this act, an eligible employee shall file an application
52 for retirement with the state board of retirement on or after April 15, 2015 and not later than July
53 15, 2015. The retirement date requested in the application shall be July 31, 2015. The

54 application for retirement may be delivered to the state board of retirement in person, by mail or
55 in such a manner as the state board of retirement may approve, including by electronic means.

56 SECTION 5. (a) An employee who is eligible for the retirement incentive program may
57 request in the application for retirement that the state board of retirement credit the employee
58 with an additional retirement benefit in accordance with this section. Each such employee shall
59 request and receive a combination of years of creditable service and years of age, in full year
60 increments, the sum of which shall not be greater than 5 years, for the purposes of determining
61 the employee's superannuation retirement allowance pursuant to paragraph (a) of subdivision (2)
62 of section 5 of chapter 32 of the General Laws.

63 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,
64 as determined in accordance with said section 5 of said chapter 32, of any employee who retires
65 and receives the retirement incentive program benefit shall not exceed 80 per cent of the average
66 annual rate of his regular compensation as determined in accordance with said section 5 of said
67 chapter 32.

68 (b) An employee: (i) shall not be eligible for more than 1 of the incentives offered in this
69 act; (ii) shall not become eligible for 1 incentive by virtue of the application of a different
70 incentive; and (iii) shall not utilize the incentive to qualify for any other rights or benefits under
71 said chapter 32. An employee who retires and receives an additional retirement benefit in
72 accordance with this act shall be deemed to be retired for superannuation under said chapter 32
73 and shall be subject to all of said chapter 32. A married employee who retires and receives an
74 additional benefit under this act shall be subject to the requirements of the second paragraph of
75 subdivision (1) of section 12 of said chapter 32.

76 (c) Notwithstanding paragraph (a) of subdivision (2) of section 5 of said chapter 32,
77 eligible employees retiring under this act who have served in more than one group shall not
78 receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total
79 years of service that the member rendered in each group.

80 SECTION 6. The state board of retirement shall provide retirement counseling to
81 employees who apply to retire under the retirement incentive program or to eligible employees
82 who request such counseling. Counseling by the board shall include, but not be limited to, the
83 following: (i) a full explanation of the retirement benefits provided by the retirement incentive
84 program; (ii) a comparison of the expected lifetime retirement benefits payable to an employee
85 under the retirement incentive program and under chapter 32 of the General Laws; (iii) the
86 election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on
87 employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to
88 the retirement allowance; and (vi) the effect of federal and state taxation on retirement income.

89 The group insurance commission shall provide counseling regarding the provision of
90 health care benefits under chapter 32A of the General Laws.

91 Each employee shall sign a statement that the employee has received counseling or does
92 not want to receive counseling prior to the approval by the board of such employee's application
93 for superannuation benefits and the additional benefit provided by this act.

94 SECTION 7. Pursuant to section 98 of chapter 32 of the General Laws, the state treasurer
95 may make advance payments in an amount and in accordance with any terms and conditions the
96 state board of retirement may prescribe to an employee who is eligible for retirement under the

97 retirement incentive program and who does not receive a retirement allowance within 90 days of
98 the effective date of retirement.

99 SECTION 8. Notwithstanding any general or special law or any collective bargaining
100 agreement or other employment contract to the contrary, and in consideration of the benefits
101 conferred in this act, an employee who elects to retire under this act and is eligible to receive a
102 payment in lieu of accrued vacation time, unused sick leave or other benefit under such
103 agreement or contract shall waive the requirement that such payment be remitted within 30 days
104 and shall instead receive 1/4 of such payment on September 1, 2015, 1/4 of such payment on
105 July 1, 2016, 1/4 of such payment on July 1, 2017, and 1/4 of such payment on July 1, 2018. Each
106 employee who elects to retire under this act shall sign a statement that the employee has agreed
107 to receive such payment according to the schedule outlined above prior to the approval by the
108 state board of retirement of the employee's application for superannuation benefits and the
109 additional benefit provided by this act. The state board of retirement shall deny an application
110 for early retirement under this act by an employee who belongs to a bargaining unit for which a
111 collective bargaining agreement inconsistent with this section is in effect at the time of that
112 application unless the employee organization representing that employee has filed with the state
113 board of retirement and with the secretary of administration and finance a statement waiving any
114 such inconsistent provision of the agreement on behalf of all members of the bargaining unit who
115 file applications under this act.

116 SECTION 9. The secretary of an executive office, with the approval of the secretary of
117 administration and finance, may fill an executive department position vacated as a result of
118 participation by an eligible employee in the retirement incentive program and the Governor may
119 fill a position in the office of the Governor vacated by such participation; provided that the total

120 annualized cost of regular compensation paid out by the commonwealth in fiscal year 2016 for
121 all such refilled positions shall not exceed 20 per cent of the total annualized cost of regular
122 compensation that would have been paid out by the commonwealth during fiscal year 2016 for
123 positions vacated in the executive department pursuant to the retirement incentive program had
124 such positions not been vacated; provided further, that the total annualized cost of regular
125 compensation paid out by the commonwealth in fiscal year 2017 for all such refilled positions
126 shall not exceed 20 per cent of the total annualized cost of regular compensation which would
127 have been paid out by the commonwealth during fiscal year 2017 for the positions vacated in the
128 executive department pursuant to the retirement incentive program had such positions not been
129 vacated.

130 Notwithstanding the provisions of section 91 of chapter 32 of the General Laws, an
131 employee retired under the provisions of this act may not be reemployed in the service of the
132 commonwealth, including as a consultant of independent contractor, or as a person whose
133 regular duties require time devoted to the service of the commonwealth, within 120 days after the
134 effective date of retirement in this act. A member who retired under the retirement incentive
135 program shall be eligible for reinstatement pursuant to section 105 of said chapter 32.

136 SECTION 10. The comptroller, in conjunction with the state board of retirement, shall
137 certify to the house and senate committees on ways and means by September 1,, 2015 the total
138 value of compensation of the last pay period prior to July 31, 2015, by line item, of each
139 individual who has enrolled in the retirement incentive program. For each such position, the list
140 shall also include the item of appropriation in which the position is funded, the name of the
141 agency, bureau, department, office, or division of the executive department, which is funded by
142 such item, the classification title of the position, the salary range for the title and the salary

143 payable to the person who retired from the position, the retirement date for the person who
144 retired or will retire from position, and the amounts of accrued vacation time, unused sick leave,
145 or other accrued benefit for each such employee as of the employee's date of retirement.

146 SECTION 11. The executive director of the public employee retirement administration
147 commission shall analyze, study, and evaluate the costs and actuarial liabilities attributable to the
148 additional benefits payable in accordance with this act. Said commission shall file a report with
149 the secretary of administration and finance, the joint committee on public service and the house
150 and senate committees on ways and means on or before January 15, 2016.

151 SECTION 12. On or before December 1, 2016, the secretary of administration and
152 finance shall file with the house and senate committees on ways and means a report detailing the
153 number of employees participating in the retirement incentive program, the estimated salary
154 savings in fiscal years 2016 and 2017 as a result of such employees' participation, the number of
155 positions that have been or are expected to be refilled before June 30, 2016, and the estimated
156 salary costs in fiscal years 2016 and 2017 on account of such refilled positions.