

HOUSE No. 2360

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Preserve and Protect the Integrity of the State Pension System..

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. Section 1 of chapter 32 of the General Laws, as appearing in the 2006
2 Official Edition is hereby amended by inserting after the word “forty-five” in line 399, the
3 following words:- and up to and including June 30, 2009.

4 SECTION 2. The first paragraph of said section 1 of said chapter 32, as so appearing, is
5 further amended by inserting after the definition of “Regular compensation” the following :-

6 “Regular compensation” for compensation received during any period subsequent to June
7 30, 2008 shall mean exclusively wages received by an employee for services performed in the
8 course of employment for his employer.

9 “Wages” for purposes of this chapter shall mean the base salary or other base
10 compensation of an employee paid directly to that employee for employment by an employer
11 plus amounts paid as educational incentives, amounts paid for length of service, amounts paid as
12 premiums for shift differentials, amounts paid as cost-of-living bonuses or cost-of-living pay

13 adjustments, and as contained in any applicable collective bargaining agreement or individual
14 contract for employment.

15 All other forms of compensation not in conformity with the foregoing, including but not
16 limited to overtime, amounts paid for additional services or for work beyond the normal work
17 year, commissions, bonuses other than cost-of-living bonuses, amounts derived from any salary
18 enhancements or salary augmentation plans of any kind, temporary or ad hoc payments or
19 increases to base salary, indirect, in-kind or any payments for such items as housing, lodging,
20 travel, annuities or other retirement benefits, welfare benefits, workers' compensation benefits,
21 job-related expense payments, automobile usage, insurance premiums, dependent care
22 assistance, tuition or any other fringe benefits, payments in kind and all payments in any medium
23 other than cash received by an individual from his employing unit for services rendered to such
24 employing unit, shall not, regardless of federal taxability, be considered regular compensation
25 for purposes of this chapter. Wages shall also not include payment in lieu of or for unused
26 vacation or sick leave, or the payment for termination, severance, dismissal, or any amounts paid
27 as premiums for working holidays, except as authorized by law, any amounts paid as early
28 retirement incentives or any other payment made as a result of the employer having knowledge
29 of the member's retirement.

30 SECTION 3. Paragraph(a) of subsection (1) of section 4 of said chapter 32, as so
31 appearing, is hereby amended by striking out, in lines 5 through 7, the words ""that he shall be
32 credited with a year of creditable service for each calendar year during which he served as an
33 elected official and provided further".

34 SECTION 4. Section 5 of said chapter 32, as so appearing, is hereby amended by adding
35 the following subsection:

36 (5) In the event that a member's retirement allowance is based on the average rate of
37 regular compensation in the last 3 years of creditable service, the average rate of regular
38 compensation shall be the lesser of the average rate of regular compensation on the regular
39 compensation actually received or the average rate of regular compensation determined as
40 though the member's regular compensation in the second year prior to retirement exceeded that
41 of the third year prior to retirement by 10 per cent and as though the member's regular
42 compensation in the final year prior to retirement exceeded the member's regular compensation
43 so determined for the second year prior to retirement by 10 per cent.

44 If, as a result of the provisions of this subsection, a member's retirement allowance is not
45 based on actual regular compensation received, the system shall refund to the member any
46 contributions made in excess of the amounts that would have been made based on the regular
47 compensation used in determining the average rate of regular compensation, plus the actuarial
48 assumed rate of interest on said contributions..

49 SECTION 5. Subsection 2 of section 6 of said chapter 32, as so appearing, is hereby
50 amended by striking out, in line 66 the word "and " and inserting in place thereof the word:- or

51 SECTION 6. Section 11 of said chapter 32, as so appearing, is hereby amended by
52 striking out, in line 13, the word "zero" and inserting in place thereof the following words:-
53 one-half the actuarial assumed interest rate of the member's retirement system.

54 SECTION 7. Said section 11 of said chapter 32, as so appearing, is hereby further
55 amended by striking out, in line 18, the words "fifty percent of the rate of regular interest

56 otherwise payable” and inserting in place thereof the following words:- one-half the actuarial
57 assumed interest rate of the member’s retirement system.

58 SECTION 8. Paragraph (b1/2) of subsection (1) of section 22 of said chapter 32, as so
59 appearing, is hereby amended by striking out the sixth sentence in its entirety, and inserting in
60 place thereof, the following sentence:-For any member of any system accepting the provisions of
61 this paragraph who entered the service of the commonwealth or a political subdivision thereof
62 on or after January first, nineteen hundred and seventy-nine, the treasurer or other disbursing
63 officer in charge of payroll in any governmental unit to which a system pertains, shall withhold
64 on each pay day, in addition to the amounts withheld pursuant to paragraph (b) an additional 2
65 per cent of each member’s regular compensation over \$50,000.

66 SECTION 9. The provisions of section 3 shall apply to an individual who becomes a
67 member after July 1, 2011.

68 SECTION 10. The provisions of section 8 shall expire on June 30, 2013.

69 Section 11. . Paragraph (a) of subsection 2 of section 10 of chapter 32 of the General
70 Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 50
71 and 51, the words “fails of nomination or re-election, or “.

72 SECTION 12. Said paragraph (a) of said subsection (2) of said section 10 of said chapter
73 32, as so appearing, is further amended, by striking out lines 73-77, and inserting in place thereof
74 the following words:-

75 the following circumstances applies: (1) that the employee has failed of re-appointment,
76 (2) that the employee's office or position has been abolished, or (3) that the employee has been
77 removed or discharged from his position without moral turpitude on his part.