

HOUSE No. 4440

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Providing for the Modernization and Sustainability of the 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 CREATE A CAP ON EARNINGS FOR PURPOSES OF CONTRIBUTIONS AND
2 BENEFITS

3 SECTION 1. The definition of “Regular compensation” in section 1 of chapter 32 of the
4 General Laws, as amended by section 2 of chapter 21 of the acts of 2009, is hereby further
5 amended by inserting after the second paragraph the following paragraph:-

6 Notwithstanding any provision of this chapter to the contrary, regular compensation for
7 any person who becomes a member after July 1, 2010 shall not include salary, wages or other
8 compensation in whatever form in any calendar year in excess of 43 per cent of the annual
9 limitation that may be imposed under federal law on the amount of compensation that may be
10 taken into account when calculating benefits under plans described in 26 U.S.C. section 401(a),
11 including, but not limited to, the applicable limits for any calendar year under 26 U.S.C. section
12 401(a)(17).

13 PURCHASE OF CREDITABLE SERVICE (TIMING AND INTEREST RATE)

SECTION 2. Section 3 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by inserting after subdivision (8) the following subdivision:-

(9) Notwithstanding any provision of this chapter to the contrary, any member who is reinstated to or re-enters the active service of a governmental unit or who is eligible to receive credit for other service under this section and does not pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest, within 1 year of the date of reinstatement or re-entry shall, in order to be entitled to creditable service resulting from the previous employment, be required to pay actuarial assumed interest instead of buyback interest on all remaining make-up payments. Eligibility for creditable service for periods of out-of-state service shall be conditioned upon payment into the annuity savings fund of the applicable retirement system, of an amount equal to the contributions such member in service would have otherwise paid into the retirement system for the period of service, as provided in this section, plus actuarial assumed interest.

PAYMENT BY ELECTED OFFICIALS

SECTION 3. Section 5 of said chapter 32 is hereby amended by inserting after the word “service”, in line 38, as appearing in the 2008 Official Edition, the following words:- ,together with buyback interest, and shall satisfy the requirements for reinstatement under section 105.

PRORATE BENEFITS BASED ON NUMBER OF YEARS IN EACH GROUP

SECTION 4. Paragraph (a) of subdivision (2) of said section 5 of chapter 32, as so appearing, is hereby amended by adding the following sentence:- The retirement allowance for

members who have served in more than one group shall be prorated by applying the percentage for each group to the number of years of service in that group.

ADJUSTED RETIREMENT AGE FACTORS - 1

SECTION 5. Said section 5 of chapter 32 of the General Laws is hereby further amended by striking out the table in paragraph (a) of subdivision (2), as appearing in the 2008 Official Edition, and inserting in place thereof the following table:-

Per Cent	Group 1	Group 2	Group 4
2.5			
67 or older			
62 or older			
57 or older			
2.375			
66			
61			
56			
2.250			
65			
60			

53	55
54	2.125
55	64
56	59
57	54
58	2.0
59	63
60	58
61	53
62	1.875
63	62
64	57
65	52
66	1.750
67	61
68	56
69	51

70 1.625

71 60

72 55

73 50

74 LIMIT ANNUAL INCREASE ON RETIREMENT EARNINGS

75 SECTION 6. Subdivision (2) of said section 5 of chapter 32, as amended by section 7 of
76 chapter 21 of the acts of 2009, is hereby further amended by inserting after paragraph (e) the
77 following paragraph:-

78 (f) In calculating the average annual rate of regular compensation for purposes of this
79 section, regular compensation in any year shall not include regular compensation that exceeds
80 the average of regular compensation received in the 2 preceding years by more than 7 per cent,
81 plus an increase determined by the increase in the United States Consumer Price Index for the
82 preceding 2 years, as reported by the actuary under paragraph (f) of subdivision (3) of section 21.
83 This paragraph shall not apply to any increase in the annual rate of regular compensation that
84 results from an increase in hours of employment or a change in position that is determined by the
85 board to be bona fide.

86 MODIFY TERMINATION BENEFITS

87 SECTION 7. Section 10 of said chapter 32, as amended by sections 9 to 13 of chapter 21
88 of the acts of 2009, is hereby further amended by striking out paragraph (a) of subdivision (2).

89 ADJUSTED RETIREMENT AGE FACTORS – 2

SECTION 8. Section 10 of chapter 32, as so amended, is hereby further amended by striking out, in lines 24 and 45, as appearing in the 2008 Official Edition, the words “one tenth of one” and inserting in place thereof, in both instances, the following figure:- 0.125.

RECOVERING PENSION PAYMENTS TO CONVICTED RETIREES AND
CODIFY AG OPINION ON WITHHOLDING PENSIONS

SECTION 9. Section 15 of said chapter 32, as amended by section 53 of chapter 25 of the acts of 2009, is hereby further amended by adding the following 2 paragraphs:-

(6) If a member’s final conviction of an offense results in a forfeiture of rights to a pension under this section, the member shall forfeit, and the board shall require the member to repay, all benefits received after the date of the offense of which the member was convicted.

(7) Notwithstanding any other provision of this chapter or any other special or general law to the contrary, when a member has been indicted on charges on which a conviction could reasonably be expected to result in a forfeiture of the member’s pension under this section, the board may refuse to accept or process the member’s application for retirement until the prosecution has reached a final resolution.

REDUCE WITHHOLDING FOR EMPLOYEES SUBJECT TO ADJUSTED
RETIREMENT AGE FACTORS

SECTION 10. Subsection (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by inserting after paragraph (iv) the following paragraph:-

(iv1/2) withhold on each pay day 8.5 per cent of the regular compensation of each employee in Group 1 who is a member in service of the system, which is received on the day by the member on account of service rendered by him on or after July 1, 2010, and not later than the date of his attaining the maximum age for Group 1, as specified in the table in subsection (a) of subdivision (2) of section 5, in the case of an employee who entered the service of the commonwealth or a political subdivision thereof on or after July 1, 2010; .

SJC CONTRIBUTIONS TO RETIREMENT SYSTEM

SECTION 11. Section 65D of said chapter 32, as so appearing, is hereby amended by inserting after the word “office,” in line 5, the following words:- and a chief justice or any associate justice of the supreme judicial court.

INCREASED SCRUTINY OF LEGISLATION BENEFITTING INDIVIDUALS

SECTION 12. Said chapter 32 of the General Laws is hereby further amended by adding the following section:-

Section 106. Before any law is enacted that provides specific retirement benefits to named individuals that are beyond the benefits available under the General Laws, the following information shall be submitted to the joint committee on public service: (a) an analysis of the cost of the legislation and the basis for granting the exemption, (b) a confirmation of the cost analysis from the public employee retirement commission and (c) a recommendation from the board.

CHARGING RETIREE HEALTH INSURANCE TO PRIOR EMPLOYERS

SECTION 13. Chapter 32B of the General Laws is hereby amended by inserting after section 9A the following section:-

Section 9A1/2. Whenever any retired employee or beneficiary receives a healthcare premium contribution from a governmental unit in a case where a portion of the retiree's creditable service is attributable to service in one or more other governmental units, the first governmental unit shall be reimbursed in full, in accordance with this paragraph, by the other governmental units for the portion of the premium contributions that corresponds to the percentage of the retiree's creditable service that is attributable to each governmental unit. The other governmental units shall be charged based on their own contribution rate or the contribution rate of the first employer, whichever is lower.

The treasurer of the first governmental unit shall annually, on or before January fifteenth, upon the certification of the board of the system from which the disbursements have been made, notify the treasurer of the other governmental unit of the amount of reimbursement due for the previous fiscal year, and the latter treasurer shall immediately take all necessary steps to insure prompt payment of this amount. In default of any such payment, the first governmental unit may maintain an action of contract to recover the same, but there shall be no such reimbursement if the 2 systems involved are the state employees' retirement system and the teachers' retirement system.

ADJUSTED RETIREMENT AGE FACTORS - 3

SECTION 14. Wherever, in any General Law, except in the table inserted by section 5 of this act, a retirement age of 55 is specified for Group 1 or Group 2, it shall be taken to mean 60, and whenever, a retirement age of 45 is specified for Group 4, it shall be taken to mean 50.

152 INCREASED PERIOD FOR AVERAGING EARNINGS

153 SECTION 15. Whenever, in chapter 32 of the General Laws, a reference is made to 3
154 years of creditable service or 3 consecutive years of creditable service, the number 3 shall be
155 taken to mean 5.

156 STUDY OF CLASSIFICATIONS

157 SECTION 16. There shall be a special commission to study the Massachusetts public
158 employees' pension classification system.

159 The commission shall review and make recommendations for reform regarding the
160 Massachusetts public employees' group classification system, beginning with consideration of
161 the work by the Blue Ribbon Panel on the Massachusetts Public Employees Pension
162 Classification system and including consideration and analysis of the cost of providing health
163 care benefits to retirees.

164 The commission shall consist of 9 members: 1 of whom shall be the secretary of
165 administration and finance, or his designee; 1 of whom shall be the executive director of the
166 public employee retirement administration commission, or his designee; 1 of whom shall be a
167 private citizen, appointed by the governor, who shall serve as chair of the commission and shall
168 not be a member of any of the 106 contributory retirement systems; 1 of whom shall be
169 appointed by the speaker of the house; 1 of whom shall be appointed by the senate president; 1 of
170 whom shall have professional experience in employee benefits or in actuarial science and shall
171 be appointed by the governor; 1 of whom shall be selected by the governor from a list of 3
172 candidates submitted by the president of the Massachusetts AFL-CIO; 1 of whom shall be a

173 member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the
174 Retired State, County and Municipal Employees Association of Massachusetts.

175 The public employee retirement administration commission shall conduct an actuarial
176 analysis to determine the costs of any recommendations made by the commission. The
177 commission shall file a report of its recommendations, together with the actuarial analysis and
178 proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and
179 senate committee on ways and means and the chairs of the joint committee on public service not
180 later than November 15, 2010.

181 EFFECTIVE DATES

182 SECTION 17. Notwithstanding any general or special law to the contrary and except as
183 expressly provided otherwise, sections 1, 5, 7, 8, 14 and 15 shall apply only to employees who
184 become members of a retirement system after July 1, 2010. Sections 2 and 3 shall apply only to
185 repayments and purchases of creditable service after July 1, 2010.