

SENATE No. 2025

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act providing responsible reforms in the pension systems.

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 is hereby amended by inserting following the
2 definition of “Regular compensation”, the following:-

3 “Regular compensation” for compensation received by any employee hired after June 30,
4 2009, shall mean exclusively wages received by an employee for services performed in the
5 course of employment for his employer.

6 “Wages” for purposes of this chapter shall mean the base salary or other base
7 compensation of an employee paid directly to that employee for employment by an employer
8 plus amounts paid as educational incentives, amounts paid for length of service, amounts paid as
9 premiums for shift differentials, and amounts paid as cost-of-living bonuses or cost-of-living pay
10 adjustments, as contained in any applicable collective bargaining agreement or individual
11 contract for employment.

12 All other forms of compensation not in conformity with the foregoing, including but not
13 limited to overtime, amounts paid for additional services or for work beyond the normal work

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

27 SECTION 2. Section 4 of chapter 32 is hereby amended by striking out the following:-
28 provided, that he shall be credited with a year of creditable service for each calendar year
29 during which he served as an elected official;

30 SECTION 3. Paragraph (1) of section 4 of chapter 32 is hereby amended by striking
31 subdivisions (o) and (o ½) and inserting in place thereof the following subdivision:- (o)
32 Notwithstanding any general or special law to the contrary, an individual who serves as an
33 unpaid municipal, county or state employee, or an individual who serves as an unpaid elected or
34 appointed municipal, county or state official, or an individual who serves as a an unpaid special
35 county employee, special municipal employee or special state employee, as defined in section 1

36 of chapter 268A of the General Laws, shall not be permitted to apply creditable service as a
37 result of serving in said position in order to increase his allowable retirement allowance under
38 chapter 32.

39 SECTION 4. Subsection (2) of section 5 of chapter 32 of the General Laws, as appearing
40 in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

41 (e) Any person who has been a member of two or more systems, and who, on or after
42 January first, two thousand and ten, has received regular compensation from two or more
43 governmental units, shall, notwithstanding and general or special law to the contrary, upon
44 retirement receive a superannuation retirement allowance to become effective on the date of
45 retirement that is equal to the sum of the benefits calculated pursuant to this section as though the
46 member were retiring solely from each system, provided, however, that the provisions of this
47 paragraph shall not apply to a member who has received part time creditable service in one or
48 more systems and provided, further, that, notwithstanding the provisions of paragraph (c) of
49 subsection (8) of section 3, each system shall pay the superannuation retirement allowance
50 attributable to membership in that system to the member.

51 SECTION 5. Subsection 7(2)(a)(ii) of Chapter 32, as appearing in the 2006 Official
52 Edition of the Massachusetts General Laws, is hereby amended by inserting after the words
53 “whichever is greater;” the following words:-

54 “provided, however, that if on the date of such injury was sustained or such hazard was
55 undergone, the individual was in a temporary or acting position, the amount to be provided under
56 this paragraph shall be based on the average annual rate of his regular compensation during the
57 previous twelve-month period for which he last received regular compensation immediately

58 preceding the date his retirement allowance becomes effective; provided further, that if the
59 individual was in a temporary or acting position, the board may review the severity of the injury
60 or hazard and the circumstances surrounding the injury or hazard and may authorize a yearly
61 amount of pension equal to seventy-two per cent of the annual rate of his regular compensation
62 on the date such injury was sustained or such hazard was undergone;”

63 SECTION 6. Paragraph (1) of section 10 of chapter 32 is hereby amended in line 4 by
64 striking out the words “or fails of nomination or election,”.

65 SECTION 7. Said paragraph (1) of section 10 of chapter 32 is hereby further amended in
66 lines 7 to 9, inclusive, by striking out the words “or fails of nomination or election, or fails to
67 become a candidate for nomination or re-election,”.

68 SECTION 8. Subsection (a) of paragraph (2) of said section 10 of chapter 32 is hereby
69 amended in lines 50 to 51 by striking out the words “and who fails of nomination or re-election”.

70 SECTION 9. Section 111 of chapter 182 of the acts of 2008 is hereby amended by
71 adding the following paragraph:-

72 The Commission shall review Massachusetts contributory retirement systems and make
73 comprehensive recommendations to reform current laws and practices. Issues the Commission
74 shall examine, include, but are not limited to: 1) Current and future employee pension plans and
75 contribution structures; 2) Termination allowances pursuant to section 10 of chapter 32 of the
76 General laws; 3) Group classification systems; 4) Capping annual pension benefits; 5) Penalties
77 for pension fraud; 6) Eligibility for and the level of benefits for employees who participate under
78 2 or more retirement systems; 7) Qualifications for credit for service pursuant to section 4 of
79 chapter 32 of the General Laws, including minimum compensation limits for officials to be

80 eligible for credit for service. The commission shall file a report of its findings and
81 recommendations, including any drafts of legislation necessary to put its recommendations into
82 effect, with the joint committee on public service no later than September 1, 2009.

83 SECTION 10. Notwithstanding any general or special law to the contrary, the
84 Massachusetts Bay Transportation Authority or any successor authority, shall enter into an
85 agreement to establish or amend existing retirement or pension benefits only if any employee
86 hired after the effective date of the agreement or amendment may not receive a retirement or
87 pension benefit prior to the completion of 25 years of credited pension service and attained 55
88 years of age. The Massachusetts Bay Transportation Authority is not prohibited by this section
89 from permitting retirement prior to attaining age 55, provided however, that either: (i) the
90 employee is entitled to a disability pension under the Massachusetts Bay Transportation
91 Authority retirement system; or (ii) the employee has earned the maximum percentage allowed
92 under the retirement formula of the Massachusetts Bay Transportation Authority retirement
93 system and that the employee waives the ability to collect a pension and retirement benefit due
94 until attaining age 55.