

SENATE No. 2026

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act providing responsible reforms in 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 SECTION 1. Section 1 of chapter 32 of the General Laws is hereby amended in lines
2 397-403 by striking out, in lines 397 to 401, inclusive, as appearing in the 2006 Official Edition,
3 the words:- ““Regular Compensation”, during any period subsequent to December thirty-first,
4 nineteen hundred and forty-five, shall mean the salary, wages or other compensation in whatever
5 form, lawfully determined for the individual service of the employee by the employing authority,
6 not including,”

7 Aand inserting in the place thereof the following words:-

8 ““Regular Compensation”, during any period subsequent to July 1, 2009first, two
9 thousand and nine, shall mean the salary, wages or other compensation in whatever form,
10 lawfully determined for the individual service of the employee by the employing authority, not
11 including, regardless of federal taxability, commissions, indirect payments, in-kind payments or
12 any payments for such items as housing, lodging, travel, annuities or other retirement benefits,”

SECTION 1. Section 1 of chapter 32 is hereby amended by inserting following the definition of “Regular compensation”, the following:-

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

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

All other forms of compensation not in conformity with the foregoing, including but not limited to overtime, amounts paid for additional services or for work beyond the normal work year, commissions, bonuses other than cost-of-living bonuses, amounts derived from any salary enhancements or salary augmentation plans of any kind, temporary or ad hoc payments or increases to base salary, indirect, in-kind or any payments for such items as housing, lodging, travel, annuities or other retirement benefits, welfare benefits, workers’ compensation benefits, job-related expense payments, automobile usage, insurance premiums, dependent care assistance, tuition or any other fringe benefits, payments in kind and all payments in any medium other than cash received by an individual from his employing unit for services rendered to such employing unit, shall not, regardless of federal taxability, be considered regular compensation for purposes of this chapter. Wages shall also not include payment in lieu of or for unused

vacation or sick leave, or the payment for termination, severance, dismissal, or any amounts paid as premiums for working holidays, except as authorized by law, any amounts paid as early retirement incentives or any other payment made as a result of the employer having knowledge of the member's retirement.

SECTION 2. Section 4 of said chapter 32 is hereby amended by striking out, in lines 5 to 7, inclusive, as so appearing, the following words:-

“;provided, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official;”

SECTION 3. Paragraph Subdivision (1) of said section 4 of said chapter 32 is hereby amended by striking out paragraphssubdivisions (o) and (o ½), as so appearing, and inserting in place thereof the following subdivision paragraph:-

(o) Notwithstanding any general or special law to the contrary, an individual who serves as an unpaid municipal, county or state employee, or an individual who serves as an unpaid elected or appointed municipal, county or state official, or an individual who serves as a an unpaid special county employee, special municipal employee or special state employee, as defined in section 1 of chapter 268A of the General Laws, shall not be permitted to apply creditable service as a result of serving in said that position in order to increase his allowable retirement allowance under this chapter 32..

SECTION 3A. Said subdivision (1) of said section 4 of said chapter 32 is hereby further amended by adding inserting, after subdivisionparagraph (o), the following subdivisionparagraph:-

(o ³/₄) Notwithstanding any general or special law to the contrary, any municipal, county or state employee who receives compensation that is of less than \$5,000 annually shall not be permitted to apply creditable service as a result of service in a position paying less than \$5,000 annually which occurs on or after January 1, 2010, in order to increase his allowable retirement allowance under this chapter 32.

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

(e) Notwithstanding any general or special law to the contrary, Any person who has been a member of two or more systems, and who, on or after January 1, 2010, first, two thousand and ten, has received regular compensation from two or more governmental units concurrently, shall, notwithstanding any general or special law to the contrary, upon retirement, receive a superannuation retirement allowance to become effective on the date of retirement that is equal to the sum of the benefits calculated pursuant to this section as though the member were retiring solely from each system; provided, however, that the provisions of this paragraph shall not apply to a member who has received part-time creditable service in one or more systems; and provided, further, that, notwithstanding the provisions of paragraph (c) of subsection subdivision (8) of section 3, each system shall pay the superannuation retirement allowance attributable to membership in that system to the member.

SECTION 5. Subsection Section 7(2)(a)(ii) of said Chapter 32, as so appearing in the 2006 Official Edition of the Massachusetts General Laws, is hereby amended by inserting after the words “whichever is greater;”, in line 73, the following words:-

78 “;provided, however, that if on the date of such injury was sustained or such hazard was
79 undergone, the individual was in a temporary or acting position, the amount to be provided under
80 this paragraph subdivision shall be based on the average annual rate of his the individual’s
81 regular compensation during the previous twelve12-month period for which he last received
82 regular compensation immediately preceding the date his retirement allowance becomes
83 effective; provided further, that if the individual was in a temporary or acting position, the board
84 may review the severity of the injury or hazard and the circumstances surrounding the injury or
85 hazard and may authorize a yearly amount of pension equal to seventy-two 72 per cent of the
86 annual rate of his regular compensation on the date such injury was sustained or such hazard was
87 undergone;”

88 SECTION 6. Paragraph (1) of sSection 10 of said chapter 32, as so appearing, is hereby
89 amended in line 4 by striking out, in line 4, the words “,or fails of nomination or re-election,”.

90 SECTION 7. Said paragraph (1) of section 10 of said chapter 32, as so appearing, is
91 hereby further amended in lines 7 to 9, inclusive, by striking out, in lines 7 to 9, inclusive, the
92 words “or fails of nomination or re-election, or fails to become a candidate for nomination or re-
93 election,”.

94 SECTION 8. Subsection (a) of paragraph (2) of sSaid section 10 of said chapter 32, as so
95 appearing, is hereby further amended in lines 50 to 51 by striking out, in lines 50 and 51, the
96 words “and who fails of nomination or re-election, or”.

97 SECTION 8A. Said section 10 of said chapter 32, as so appearing, is hereby further
98 amended by striking out, in line 79, the word “six” and inserting in place thereof the following
99 figure:- 10.

SECTION 8B. Said chapter 32 is hereby further amended by inserting after section 22D the following new section:-

Section 22E. Notwithstanding any general or special law to the contrary, a pension impact statement shall be filed not later than 30 days after the effective date of any law that affects the commonwealth's pension liability, as defined in section 1, by changing the benefits or contributions of classes of members including, but not limited to, early retirement incentive programs. The pension impact statement shall be prepared or approved by the actuary of the public employee retirement administration commission and shall analyze, study, and evaluate the costs and the actuarial liabilities attributable to such change. The actuary shall file the pension impact statement with each retirement system to which any portion of the change in liability is attributable and shall send a copy to the secretary of administration and finance and the house and senate committees on ways and means. The actuary may subsequently revise the estimates in a pension impact certificate and revise the required contribution schedule it requires accordingly.