

SENATE No. 2044

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act providing for the payment of certain accidental disability retirement and medical benefits to Antonio Pickens..

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. Notwithstanding the provisions of any general or special law to the
2 contrary and in order to promote the public good, the Retirement Board of the Town of Milton,
3 shall retire Antonio Pickens, a firefighter employed by the Town of Milton who, while
4 responding to a minor motor vehicle accident sustained injuries likely to result in his death. The
5 annual amount of pension payable to Antonio Pickens under this act shall be fixed in an amount
6 equal to the regular rate of compensation which would have been paid had he continued in
7 service as a firefighter in said town at the grade held by him at the time of his retirement, but (a)
8 after he has attained the maximum age for this group, shall be reduced to the appropriate rate for
9 an accidental disability retirement, treating his retirement years as creditable service for
10 determining the amount of his benefits and (b) the retirement allowances payable to him after he
11 has attained the maximum age for his group shall be increased in the manner provided to all
12 retirees of the town pursuant to any provision of chapter 32 of the General Laws.

13 SECTION 2. Before taking action under authority of this act, the Retirement Board of the
14 Town of Milton shall request the state Public Employee Retirement Administration Commission
15 (PERAC) to appoint a medical panel composed of three physicians who shall examine
16 Firefighter Pickens or, if a majority of said Retirement Board shall agree, forego such
17 examination and review the existing medical records and other relevant information concerning
18 Firefighter Pickens. The Retirement Board of the Town of Milton shall approve a pension for
19 Antonio Pickens upon receipt of a report from such medical panel which concludes that
20 Firefighter Pickens is physically incapacitated for further duty as a firefighter, that such
21 incapacity is likely to be permanent and that such injuries are likely to result in his premature
22 death. Such retirement shall become effective as of the date following the last day on which he is
23 entitled to receive regular compensation. Upon the retirement of Antonio Pickens, the Retirement
24 Board of the Town of Milton shall forthwith pay to him all amounts standing to his credit in the
25 annuity savings fund of the retirement system of said town. Upon the approval of the pension
26 provided for herein and notwithstanding the provisions of any general or special law to the
27 contrary, including, but not limited to, section 8 of chapter 32 of the General Laws, Antonio
28 Pickens shall not be subject to examination or to re-examination by a medical panel or other
29 physician to determine his eligibility or continued eligibility for accidental disability retirement
30 benefits as provided in this section or in said chapter 32.

31 SECTION 3. Upon the death of Antonio Pickens prior to the maximum age for retirement
32 for his group, if his wife at the time of the incident survives him, and as long as she remains
33 unmarried, the Town of Milton shall pay to his wife an annual annuity equal to the sum of three-
34 fourths of the amount of the pension payable to him at the time of his death, and \$687.96
35 annually adjusted for a cost-of living adjustment for each child of Antonio Pickens for such time

as such child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full time student. Upon the death of Antonio Pickens after the maximum age for retirement for his group, if his wife at the time of the incident survives him, she shall be entitled to the same benefits as other surviving spouses under chapter 32, as shall their children. In the event of the death of Antonio Pickens, and if his wife at the time of his death does not survive him, such allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children, as defined above.

SECTION 4. Antonio Pickens shall be eligible for health insurance through the Town of Milton on the same basis as all other retirees and shall be responsible for the retirees' share of all premiums. Following his retirement, the Town of Milton shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired. (i) Medical care shall first be provided through the health insurance provided to retired Town of Milton employees pursuant to chapters 32B and 150E of the General Laws. (ii) The Town of Milton shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured. The Town of Milton shall pay to the health care providers the fees and other expenses for authorized services whose costs exceed applicable benefits limits, but whose payment is denied solely because of such applicable benefits limit. (iii) Any such payments pursuant to this section shall meet all other eligibility requirements of said health insurance; provided however, that Antonio Pickens shall not be required to change health care providers; and provided, further, that any changes made by him in health care providers, and any referrals from current health care providers to health care

providers who have not rendered care to him for injury for which he was retired, shall comply with paragraph (i).

SECTION 5. Antonio Pickens shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to PERAC pursuant to section 91A of chapter 32 of the General Laws. Antonio Pickens shall be subject to the limitation of earnings formula as set forth in said section 91A, with the ability to earn the amount described in said section 91A plus an additional \$5,000.00. If he earns in excess of these allowable amounts, PERAC shall inform him of the excess amount earned and the amount owed by him to the Retirement Board of the Town of Milton. PERAC shall, in its discretion, require repayment of that amount to said retirement board, or may withhold amounts as it deems appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

SECTION 6. The retirement allowances payable pursuant to this section shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements in the normal course of events pursuant to said chapter 32, except to the extent that said chapter 32 conflicts with this act.