

**HOUSE . . . . . No. 719**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Sarah K. Peake***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide for early retirement for classroom teachers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/19/2011</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>	<i>2/3/2011</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>2/3/2011</i>

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By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 719) of Sarah K. Peake, Rhonda Nyman and Paul J. Donato providing for early retirement for classroom teachers. Public Service.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3733 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act to provide for early retirement for classroom teachers.

*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. Definitions:

2 (a) "Contract" means any personal service agreement, not involving the sale of  
3 commodities, that cannot be performed within 60 days of for which the total compensation  
4 exceeds \$5,000.00 dollars in any 12 month period. The term "contract" does not include any  
5 agreement obtained

6 through a bidding process and which is for the furnishing of any commodity to a  
7 government agency.

8 (b) "Government Agency" means the Commonwealth of Massachusetts, a constitutional  
9 branch or office of the state government, or any subdivision of state government, a county, a city  
10 or town in the state.

11 (c) "Substitute Teacher" means a teacher, public school librarian, or any other person  
12 employed for counseling or instructional or administrative purposes in a public school in this  
13 state who is temporarily fulfilling the duties of an existing person employed in a specific position  
14 who is temporarily absent from the specific position.

15 (d) "Teacher" means a classroom teacher of grades kindergarten through twelve who has  
16 as their primary responsibility the academic instruction of students in a classroom for not less  
17 than 4 hours a day throughout the entire contract year. Their primary position must have been a  
18 classroom teacher for a minimum of 5 years prior to Teacher Early Retirement Incentive.

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## 20 SECTION 2. IMPLEMENTATION

21 (a) This act, Teacher Early Retirement Incentive Program, shall begin on July 1, 2009  
22 and remain in effect until August 31, 2012. Teachers who are eligible to participate in the  
23 program need approval of the School

24 District they are employed in.

25 (b) For a teacher to qualify for an incentive, their primary position must have been a  
26 classroom teacher for a minimum of 5 years prior to Teacher Early Retirement Incentive, they  
27 must have 25 or more years of eligible and creditable service in the Massachusetts Teachers  
28 Retirement System, be age 53 or more and must terminate service on or before August 31, 2012.

29 (c) Massachusetts Teachers Retirement Board is offering an incentive to teachers already  
30 eligible for retirement or with at least 25 years' of eligible and creditable service. Maintaining  
31 an actuarially sound retirement fund is essential and that the reemployment in any manner,  
32 including reemployment on a contract basis, by the state of any person who retired under this  
33 section is contrary to the intent of the early retirement program.

34 (d) Certified teachers working less than full-time in the application year will have the  
35 incentive payment prorated according to their full-time equivalent (FTE) percentage.

36 (e) A teacher can retire at any time in the school year subject to agreement with the  
37 school district. This can be some time other than after the school calendar ends and before the  
38 next school calendar begins.

39 (f) Incentives shall be considered additional compensation flowing from the employment  
40 relationship and subject to federal and state tax laws. Incentives can be used to pay for previous  
41 eligible and creditable service and shall not be considered salary for purposes of the  
42 Massachusetts teachers retirement system.

43 (g) The decision to adopt the Teacher Early Retirement Incentive Program, is to be made  
44 by the governing body of the employer and does not require negotiations with bargaining units.

### 45 SECTION 3. School district requirements

46 (a) For a government entity, such as a school district, to offer an early retirement  
47 incentive, it "must be experiencing teacher layoffs due to budget shortfalls or a reorganization  
48 that would be offset by offering the incentive." This requirement may or may not be easy for  
49 school districts to meet.

50 (b) School districts shall provide a benefit worth one half of the salary savings, by the  
51 amount of retiring teacher salary minus the new hire, if any, and 50 per cent of the difference up  
52 to \$17,500.00 per teacher. Only public school districts in Massachusetts qualify for the incentive.

53 (c) Early retirement incentives are in addition to any retirement and severance benefits  
54 that have been offered generally to teachers within preceding years.

55 SECTION 4. Teacher requirements

56 (a) Each certificated classroom teacher is eligible for an early retirement incentive,  
57 provided they meet the following criteria:

58 (1) Employed by a Massachusetts public school.

59 (2) The teacher has completed a minimum of 25 or more years of eligible and creditable  
60 service in the Massachusetts Teachers Retirement System, which may include time spent on a  
61 sabbatical leave, in a Massachusetts public school district at the time of application. The amount  
62 of eligible and creditable service is measured on the actual date of retirement.

63 (c) The teacher is 53 or more years old before September 1 of the year the application is  
64 made. The age is measured on the actual date of retirement.

65 (d) The teacher is not eligible for disability retirement from the public employee  
66 retirement system of Massachusetts at the time of application.

67 (e) The teacher submits their application to the superintendent of a public school district  
68 and is approved.

69 (f) How the incentive can be used. The retirement incentive of \$17,500.00 or less  
70 may be used in the following ways:

71 (1)A health care savings plan administered by the school district Retirement System.

72 (2)Purchase of retirement service credit from the Massachusetts Teachers Retirement.

73 (3)Purchase of an annuity.

74 (4)Lump sum of cash after taxes.

75 (g) The amount money needed to use in the purchase of previous eligible and  
76 creditable service credit can be a substantial sum. A \$17,500.00 retirement incentive may only  
77 pay for part of a persons retirement buy back. The teacher would have to pick up the rest. The  
78 teacher may use money from any deferred compensation account, such as a 403(b) plan, to help  
79 purchase the service credit.

80 (h) Any member who participates in the retirement incentive program under the  
81 enactment of this section is not eligible to accept further employment or accept directly or  
82 indirectly work on a contract basis from a Massachusetts governmental entity until they have  
83 been retired for at least 3 years, except as a substitute teacher.

#### 84 SECTION 4. FISCAL IMPACT

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86 (a) The impact on the Public School budget normally comes from reduced compensation  
87 and benefits cost when a teacher retires. These savings are best realized when the teacher is not  
88 replaced after retirement. However some local districts may need to replace a teacher who opts

89 for early retirement. When judging whether an early retirement should be accepted school  
90 districts should assess the potential costs and benefits of the early retirement and the cost/benefit  
91 analysis should be linked to the goals of the early retirement.

92 (b) The savings will reduce the budget by the amount of retiring teacher salary minus the  
93 new hire, if any, and 50 per cent of the difference up to \$17,500.00. This will depend on the pay  
94 and experience factor of the teacher, and how many choose early retirement in a given year.

95 (c) The impact on the General Fund is none.