

**HOUSE . . . . . No. 3487**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Carole A. Fiola***

*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 accelerate state employee replacement.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/15/2015</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>12/30/2019</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/30/2015</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>2/4/2015</i>

**HOUSE . . . . . No. 3487**

By Ms. Fiola of Fall River, a petition (accompanied by bill, House, No. 3487) of Carole A. Fiola and others for legislation to establish a retirement incentive program for state employees. Public Service.

**The Commonwealth of Massachusetts**

**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**

An Act to accelerate state employee replacement.

*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. (a) Notwithstanding chapter 32 of the general laws or any other general or  
2 special law to the contrary, the state board of retirement, established under section 18 of chapter  
3 10 of the general laws, shall establish and implement a retirement incentive for state employees,  
4 hereinafter referred to as the state employee replacement program, in accordance with this act.

5 (b) In order to be deemed eligible by the state board of retirement for any of the benefit  
6 options under the state employee replacement program, an employee: (i) shall be a member in  
7 active service of the state retirement system on the effective date of this act; (ii) shall have  
8 attained 20 years or more of creditable service as defined in section 1 of chapter 32 of the general  
9 laws on the effective date of this act; and (iii); shall have filed a written application with the  
10 board in accordance with this act.

11 (c) An employee who retires and receives an additional benefit in accordance with this  
12 act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to  
13 all of said chapter 32.

14 (d) Words used in this act shall have the same meaning as when they are used in said  
15 chapter 32 unless otherwise expressly provided or the context clearly requires otherwise.

16 SECTION 2. (a) Notwithstanding section 5 of chapter 32 of the general laws, in order to  
17 receive the retirement benefit provided by this act, an eligible employee, except as otherwise  
18 provided in this act, shall file his or her application for retirement with the state board of  
19 retirement on or after July 1, 2015 and not later than June 30, 2017, hereinafter referred to as the  
20 open period. An employee electing to retire under this act shall notify his or her immediate  
21 supervisor or organization designee, 1 month prior to his or her retirement date, of his or her  
22 impending retirement.

23 (b) An eligible state employee may make an advance payment to the state retirement  
24 system in an amount equal to his or her current annual contribution to the state retirement  
25 system. The advance payment must be a minimum amount equal to one year of his or her  
26 current annual contributions to the state retirement system but not more than three years of his or  
27 her current annual contributions to the state retirement system. An advance payment may be  
28 made any time from the first day of the open period through a date 1 month before the last day of  
29 the open period in subsection (a). An employee may make an advance payment in one amount or  
30 in interim amounts. An employee may make an advance payment in interim amounts through  
31 payroll withholding deductions. An employee may not make an advance payment before or after  
32 the dates constituting the open period in said subsection (a).

33 (c) Notwithstanding chapter 32 of the General Laws or any other general or special law to  
34 the contrary, an employee electing to make advance payments shall, prior to making the first  
35 such payment, elects to retire no later than the last date of the open period in said subsection (a).  
36 An employee electing to make advance payments by payroll withholding shall, prior to the first  
37 of such withholding, make an irrevocable election to retire no later than the last date of the open  
38 period in said subsection (a).

39 (d) Eligibility of an employee to participate in this incentive program may be revoked by  
40 the prior to the close of the open period for various reasons, including but not limited to: failure  
41 of an employee to retire before the close of the open period, termination of employment before  
42 the close of the open period, failure to make the minimum advance payment amount described  
43 above, termination of employment for cause prior to the close of the open period, the employee's  
44 death. Revocation will result in any amount of the advance payment being refunded and the  
45 employee will not receive the benefits described above.

46 (e) If a participating employee, upon retiring before the close of the open period has made  
47 an advance payment that is more than one year of his or her current annual contributions to the  
48 state retirement system but less than two years of his or her current annual contributions to the  
49 state retirement system, the part of such advance payment in excess of one year of his or her  
50 current annual contributions to the state retirement system, shall be refunded and he or she shall  
51 add one year to his or her eligible age and creditable service factors, used to compute retirement  
52 benefits. If a participating employee, upon retiring before the close of the open period has made  
53 an advance payment that is more than two years of his or her current annual contributions to the  
54 state retirement system but less than three years of his or her current annual contributions to the  
55 state retirement system, the part of such advance payment in excess of two years of his or her

56 current annual contributions to the state retirement system, shall be refunded and he or she shall  
57 add two years to his or her eligible age and creditable service factors, used to compute retirement  
58 benefits.

59 SECTION 3. (a) Notwithstanding any general or special law to the contrary, the state  
60 board of retirement shall, no more than 30 days after the passage of this act, inform all current  
61 employees who have 20 years or more of creditable service under chapter 32 of the general laws,  
62 of the state employee retirement incentive program. No more than 45 days after the passage of  
63 this act, the board shall survey each employee for interest in the program. The board shall  
64 provide each state agency, as defined in section 1 of chapter 29, with the names of all current  
65 employees of each such agency who have 20 years or more of creditable service. The board  
66 shall also provide each agency with the results of its survey. Upon receipt of the survey by the  
67 state board of retirement pursuant to this act, each state agency shall begin recruiting  
68 replacement employees in advance of experiencing retired employees.

69 (b) For employees who choose to consider retiring or who choose to retire pursuant to  
70 this act, the board shall provide retirement counseling. Such counseling shall include, but not be  
71 limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii)  
72 a comparison of the expected lifetime retirement benefits payable to the employee under the  
73 retirement incentive program and under the existing chapter 32 of the general laws; (iii) the  
74 election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on  
75 employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to  
76 the retirement allowance; and (vi) the effect of federal and state taxation on retirement income.  
77 The group insurance commission shall provide counseling about the provision of health care  
78 benefits under chapter 32A of the general laws. Each such employee shall sign a statement that

79 he has received the counseling or that he or she does not want to receive the counseling prior to  
80 the approval by the state board of retirement of such employee's application for superannuation  
81 benefits and the additional benefit provided by this act.

82 SECTION 4. Notwithstanding any general or special law to the contrary, each state  
83 agency, as defined in section 1 of chapter 29 of the general laws shall, immediately upon being  
84 advised of the date it will experience an employee retiring under this act, initiate a process to  
85 replace such employee. Replacement of retired employees shall be completed within 6 months  
86 after the retired employee departs. Replacement employees shall be hired into the same civil  
87 service position of the retired employee but at the entry level. For the purposes of this act, the  
88 term entry level shall mean a position having a title which is the lowest in a series of titles in the  
89 state classification plan

90 SECTION 5. The secretary of administration and finance shall list each position made  
91 vacant by the retirement of an employee from a state agency pursuant to this act and shall file  
92 such list with the house and senate committees on ways and means and the comptroller not later  
93 than October 15, 2017 and shall supplement the list as may be deemed necessary through June  
94 30, 2018. For each such position, the list shall include the item of appropriation in which the  
95 position is funded, the name of the state agency which is funded by such item, the classification  
96 title of the position, the salary range for the title and the salary payable to the person who retired  
97 from the position. The list and any supplements shall indicate which of these positions were  
98 refilled, the date on which they were refilled and the annual salary of each refilled position.