

# HOUSE . . . . . No. 4436

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Paul J. Donato***

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*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 relative to Trial Court reporters.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>6/8/2016</i>

# HOUSE . . . . . No. 4436

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By Mr. Donato of Medford, a petition (subject to Joint Rule 12) of Paul J. Donato that the State Board of Retirement be authorized to establish a retirement incentive for certain Trial Court employees. Public Service.

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## The Commonwealth of Massachusetts

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

An Act relative to Trial Court reporters.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith an early retirement program for court reporters within the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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. Words used in this act shall have the same meanings as those in chapter 32  
2 of the General Laws unless the context clearly requires otherwise; provided, however, that the  
3 following words shall have the following meaning:

4           “Trial Court Reporter”, the full-time position of court reporter for courts within the  
5 Massachusetts Trial Court system.

6           SECTION 2. (a) Notwithstanding chapter 32 of the General Laws or any other general or  
7 special law to the contrary, the state board of retirement shall establish and implement a  
8 retirement incentive for Trial Court Reporter employees, in this act referred to as the court  
9 reporter retirement incentive program.

(b) To be considered eligible by the state board of retirement for any of the benefit options under the court reporter retirement incentive program, an individual shall: (i) be employed as a Trial Court Reporter, or be on an authorized leave of absence from the position of Trial Court Reporter, as of the effective date of this act and through the date of retirement established in Section 3 of this act; (ii) be a member in service of the state employees' retirement system pursuant to clause (i) of paragraph (a) of subdivision (1) of section 3 of chapter 32 of the General Laws as of the effective date of this act; (iii) be classified in Group 1 of the state employees' retirement system pursuant to paragraph (g) of subdivision (2) of said section 3 of said chapter 32 as of the effective date of this act; (iv) be eligible to receive a superannuation retirement allowance pursuant to subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 as of the date of retirement established in Section 3 of this act, or would be eligible for said retirement allowance as of the date of retirement established in Section 3 of this act if the incentive is awarded; (v) not have already retired under the provisions of chapter 32 or otherwise separated from service from employment with the Commonwealth of Massachusetts; and (vi) file a timely application with the board pursuant to Section 3 of this act.

(c) Notwithstanding subsections (a) and (b), the following employees shall not be eligible to receive any benefit from the court reporter retirement incentive program: (i) employees whose compensation is funded from a capital appropriation, federal grant or trust as each is defined in section 1 of chapter 29 of the General Laws as of the filing date for the application pursuant to section 3; (ii) employees or members of the state employees' retirement system who, as of the effective date of this act, are not contributing to the retirement system pursuant to section 90G3/4 of chapter 32 of the General Laws or have not completed reinstatement pursuant to section 105 of said chapter 32.

33           The state retirement board shall make final determination regarding an employee's  
34   eligibility for retirement benefits and the amount of any retirement benefits granted under this  
35   act.

36           (d) An employee eligible under this act may not utilize the spousal benefit established in  
37   section 322 of chapter 149 of the acts of 2004 in combination with the benefit options provided  
38   in section 4.

39           SECTION 3. Notwithstanding section 5 of chapter 32 of the General Laws, the state  
40   board of retirement shall receive an eligible employee's application for retirement not later than  
41   December 1, 2016 in order for the employee to be eligible to receive the retirement benefit  
42   provided in this act. The retirement date requested in an eligible employee's application shall be  
43   January 31, 2017. The application for retirement may be delivered to the board in person, by  
44   mail or in a manner as the board may approve, including by electronic means. The application of  
45   the retirement incentive provided by this act may not be deferred to a later date.

46           SECTION 4. (a) The state board of retirement shall credit the employee with an  
47   additional retirement benefit pursuant to this section. Each such employee shall request and  
48   receive a combination of years of creditable service and years of age, in full-year increments;  
49   provided, however, that the sum of the years of creditable service and years of age shall not be  
50   greater than 5 years to determine the employee's superannuation retirement allowance pursuant  
51   to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

52           Notwithstanding the credit, the total normal yearly amount of the retirement allowance,  
53   as determined pursuant to said section 5 of said chapter 32, of any employee who retires and  
54   receives the retirement incentive program benefit shall not exceed  $\frac{4}{5}$  of the average annual rate

of the employee's regular compensation as determined pursuant to said section 5 of said chapter 32.

(b) An employee shall not utilize the incentive provided for in this act to qualify for any other rights or benefits pursuant to chapter 32 of the General Laws. An employee who retires and receives an additional retirement benefit pursuant to this act shall be considered retired for superannuation pursuant to said chapter 32 and shall be subject to said chapter 32. A married employee who retires and receives an additional benefit pursuant to this act shall be subject to the requirements of the second paragraph of subdivision (1) of section 12 of said chapter 32.

(c) Notwithstanding paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws, an eligible employee retiring under the court reporter retirement incentive program who has served in more than one group shall receive a retirement allowance as if the employee served only as a Group 1 employee for the entire length of state service and shall not receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that the employee rendered in each group.

SECTION 5. If requested, the state board of retirement shall provide retirement counseling to employees who apply to retire under the court reporter retirement incentive program. Counseling by the board shall include, but need not be limited to: (i) a full explanation of the retirement benefits provided by the court reporter retirement incentive program; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and pursuant to chapter 32 of the General Laws; (iii) the election of a retirement option pursuant to section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the

retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling regarding the provision of health care benefits pursuant to chapter 32A of the General Laws. Each employee shall sign a statement that the employee has received counseling or does not want to receive counseling prior to the approval by the board of the employee's application for superannuation benefits and the additional benefit provided by this act.

SECTION 6. Pursuant to section 98 of chapter 32 of the General Laws, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due and under any terms and conditions the state board of retirement may prescribe to an employee who is eligible for retirement under the retirement incentive program and who does not receive a retirement allowance within 90 days of the effective date of retirement. Section 91 of said chapter 32 shall not apply for calendar year 2017 to any previously retired employees of the board engaged to implement this act.

SECTION 7. Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under the collective bargaining agreement or other employment contract shall receive payment by March 1, 2017. An employee who elects to retire under this act shall sign a statement that the employee has agreed to receive the payment according to the schedule outlined in this section prior to the approval of the employee's application for superannuation benefits and the additional benefit provided by this act by the state board of retirement. The board shall deny an application for the retirement incentive program under this act by an employee who belongs to a bargaining unit for which a

collective bargaining agreement inconsistent with this section is in effect at the time of the application unless the employee organization representing the employee has filed with the board and the secretary of administration and finance a statement waiving any inconsistent provisions of the agreement on behalf of all members of the bargaining unit who file applications for the retirement incentive program pursuant to this act.

SECTION 8. Notwithstanding section 91 of chapter 32 of the General Laws, or section 181 of chapter 25 of the acts of 2009, an employee retired under this act shall not be re-employed in state service, whether as a consultant, an independent contractor or a person whose regular duties require time devoted to state service, within 30 days after the date of retirement. A member who retired under the retirement incentive program shall be eligible for reinstatement under section 105 of said chapter 32.

SECTION 9. Notwithstanding this act an otherwise eligible employee under this act may in the alternative apply to retire pursuant the provisions of section 5 or section 10 of chapter 32 of the General Laws without the benefit of the court reporter retirement incentive program. However, such application to retire must be made under the terms and conditions of Section 3 of this act.