

HOUSE No. 61

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
, MA

KARYN POLITO
LIEUTENANT GOVERNOR

March 4, 2015

To the Honorable Senate and House of Representatives,

I am filing for your consideration, “An Act Providing for an Employee Retirement Incentive Program.”

The primary goal of the Employee Retirement Incentive Program (or “ERIP”) will be to help reduce the state’s payroll, while minimizing the number of employees who are involuntarily laid off. Effectively implementing an early retirement program is a more responsible way to reduce the state’s payroll.

Key provisions of the proposed ERIP legislation are as follows:

- In order to be eligible to receive the benefit of the ERIP, an employee must be:
 - o an executive department employee (The program is available only to persons employed by an Executive Office of the Commonwealth, as defined by G. L. c. 6A, § 2, or by any agency, bureau, department, office, or division of the Commonwealth within or reporting to such an Executive Office of the Commonwealth);
 - o a Group 1 member of the state retirement system; and
 - o vested with a minimum of 20 years of service or at least 55 years of age on the employee’s date of retirement.

- Each participating employee shall receive up to five years of creditable service or years of age, or a combination of both that adds up to five years, for the purpose of determining his or her retirement benefit pursuant to G. L. c. 32, § 5(a)(2). Notwithstanding the available five year credit, no employee shall be entitled to an annual retirement benefit greater than 80 percent of the average annual rate of his or her regular compensation at the time of retirement as provided by G. L. c. 32, § 5.

- There will be a deferred payout mechanism for accrued vacation time and unpaid sick leave and similar benefits for any employee who elects to participate in the ERIP.

- An employee wishing to participate in the ERIP must file an application for retirement with the State Retirement Board between April 6, 2015 and May 29, 2015.

- An employee participating in the ERIP must retire no later than June 30, 2015.

The Baker-Polito Administration expects the ERIP to generate approximately \$177,900,000 net operating budget savings in fiscal year 2016, after paying for all costs sustained in fiscal year 2016, including a payment to defray the additional unfunded liability resulting from implementing this program. This calculation assumes that 4,500 eligible employees choose to participate in the ERIP.

Prompt consideration and passage of this legislation is a crucial part of the Baker-Polito approach to the fiscal year 2016 budget, and I ask you to consider it promptly.

Sincerely,

Charles D. Baker,
Governor

HOUSE No. 61

Message from His Excellency the Governor recommending legislation relative to providing for an employee retirement incentive program.

The Commonwealth of Massachusetts

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

An Act providing for an employee retirement incentive program.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for a fair and orderly manner in which the number of executive department employees may be reduced in order to decrease expenditures by the commonwealth, 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.

2 (a) Notwithstanding chapter 32 of the General Laws or any other general or special
3 law to the contrary, the state board of retirement, established under section 18 of chapter 10 of
4 the General Laws, shall establish and implement a retirement incentive for executive department
5 employees, hereinafter referred to as the retirement incentive program, in accordance with this
6 section. For the purposes of this act, an executive department employee is a person who is
7 employed by the office of the Governor or by an executive office of the commonwealth, as
8 defined by section 2 of chapter 6A, or by an agency, bureau, department, office, or division of
9 the commonwealth within or reporting to such an executive office of the commonwealth.

10 In order to be deemed eligible by the board for any of the benefit options under the
11 retirement incentive program, an employee: (i) shall be an executive department employee on the
12 effective date of this act; (ii) shall be a member in active service of the state retirement system on
13 the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in
14 accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible
15 to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5
16 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 on the effective date of this
17 act; (v) and shall have filed a written application with the board in accordance with subsection
18 (b).

19 Notwithstanding any provisions of this act to the contrary, employees whose
20 compensation is funded from a federal grant, trust, or capital appropriation, each as defined in
21 section 1 of chapter 29 of the General Laws, shall not be eligible to receive any benefit from the
22 retirement incentive program, and elected officials shall not be eligible to receive any benefit
23 from the retirement incentive program. The Massachusetts Transportation Trust Fund established
24 under section 4 of chapter 6C shall not be deemed to be a “trust” for purposes of this paragraph
25 and employees whose compensation is paid from the Massachusetts Transportation Trust Fund
26 shall be eligible to receive a benefit from the early retirement incentive program if they
27 otherwise satisfy the requirements for eligibility.

28 The application filed for retirement under this act may be delivered in person or by U.S.
29 mail to the state board of retirement or through any other manner as the state board of
30 retirement may approve. No employee shall be eligible for more than 1 of the incentives offered
31 in this act and no employee may become eligible for 1 incentive by virtue of the application of a

32 different incentive. Words used in this act shall have the same meaning as when they are used in
33 said chapter 32 unless otherwise expressly provided or unless the context clearly requires
34 otherwise. An employee who retires and receives an additional retirement benefit in accordance
35 with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be
36 subject to all of said chapter 32.

37 (b) Notwithstanding section 5 of chapter 32 of the General Laws which requires a
38 retirement date within 4 months of the filing of an application for superannuation retirement, in
39 order to receive the retirement benefit provided by this act, an eligible employee shall file his
40 application for retirement with the state board of retirement on or after April 6, 2015 and not
41 later than May 29, 2015. The retirement date requested shall be on or before June 30, 2015.

42

43 (c) An employee who is eligible for the retirement incentive program may request in
44 his application for retirement that the state board of retirement credit him with an additional
45 retirement benefit in accordance with this section. Each such employee shall request and receive
46 a combination of years of creditable service and years of age, in full year increments, the sum of
47 which shall not be greater than 5 years, for the purposes of determining his superannuation
48 retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of
49 the General Laws.

50 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,
51 as determined in accordance with said section 5 of said chapter 32, of any employee who retires
52 and receives the retirement incentive program benefit shall not exceed 80 per cent of the average

53 annual rate of his regular compensation as determined in accordance with said section 5 of said
54 chapter 32.

55 (d) For a married employee who retires and receives an additional benefit under this
56 act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall
57 not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the
58 member's spouse's knowledge and understanding of the retirement option selected; or (ii) a
59 certification by the state board of retirement that the spouse has received notice of such election
60 as provided in this section. If a member who is married files an election which is not signed by
61 the spouse, the state board of retirement shall notify the member's spouse within 15 days by
62 registered mail of the option election and the election shall not take effect until 30 days after the
63 date on which the notification was sent. An election under this paragraph may be changed by the
64 member at any time within 30 days or at any other time permitted under said chapter 32.
65 Nothing in this section shall affect the effective date of any retirement allowance, but in the
66 event of any election having been filed which is not so accompanied, the payment of any
67 allowance so elected shall not be commenced earlier than 30 days after the state board of
68 retirement sends the required notice.

69 (e) The state board of retirement shall provide retirement counseling to employees
70 who choose to consider retiring or who choose to retire under the retirement incentive program.
71 Such counseling shall include, but not be limited to, the following: (i) a full explanation of the
72 retirement benefits provided by the retirement incentive program; (ii) a comparison of the
73 expected lifetime retirement benefits payable to an employee under the retirement incentive
74 program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement
75 option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement;

76 (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance;
77 and (vi) the effect of federal and state taxation on retirement income. The group insurance
78 commission shall provide counseling about the provision of health care benefits under chapter
79 32A of the General Laws. Each such employee shall sign a statement that he has received the
80 counseling or that he does not want to receive the counseling prior to the approval by the state
81 board of retirement of such employee's application for superannuation benefits and the additional
82 benefit provided by this act.

83 (f) Pursuant to section 98 of said chapter 32, the state treasurer may make advance
84 payments in an amount not to exceed any retirement allowance actually due to an employee who
85 is eligible for and who has filed an application for retirement under the retirement incentive
86 program and who does not receive a retirement allowance within 60 days after submitting a
87 retirement application, during such period as is necessary for the processing of the application
88 for retirement.

89
90 (g) Notwithstanding any general or special law or any collective bargaining
91 agreement or other employment contract to the contrary and in consideration of the benefits
92 conferred in this act, an employee who elects to retire under this act and is eligible to receive a
93 payment in lieu of accrued vacation time, unused sick leave or other benefit under such
94 agreement or contract shall waive the requirement that such payment be remitted within 30 days
95 and shall instead receive 1/4 of such payment on August 1, 2015, 1/4 of such payment on July 1,
96 2016, 1/4 of such payment on July 1, 2017, and 1/4 of such payment on July 1, 2018. Each
97 employee who elects to retire under this act shall sign a statement that he has agreed to receive

98 such payment according to the schedule outlined above prior to the approval by the state board of
99 retirement of the employee's application for superannuation benefits and the additional benefit
100 provided by this act. The state board of retirement shall deny an application for early retirement
101 under this act by an employee who belongs to a bargaining unit for which a collective bargaining
102 agreement inconsistent with this section is in effect at the time of that application unless the
103 employee organization representing that employee has filed with the state board of retirement
104 and with the secretary of administration and finance a statement waiving any such inconsistent
105 provision of the agreement on behalf of all members of the bargaining unit who file applications
106 under this act.

107 (h) The secretary of an individual executive office specified in section 2 of chapter
108 6A, with the approval of the secretary for administration and finance, may fill an executive
109 department position vacated as a result of participation by an eligible employee in the retirement
110 incentive program and the Governor may fill a position in the office of the Governor vacated by
111 such participation. The total annualized cost of regular compensation paid out by the
112 commonwealth in fiscal year 2015 for all such refilled positions, however, shall not exceed 20
113 per cent of the total annualized cost of regular compensation which would have been paid out by
114 the commonwealth during fiscal year 2015 for positions vacated in the executive department
115 pursuant to the retirement incentive program had such positions not been vacated; and further
116 provided that the total annualized cost of regular compensation paid out by the commonwealth in
117 fiscal year 2016 for all such refilled positions shall not exceed 20 per cent of the total annualized
118 cost of regular compensation which would have been paid out by the commonwealth during
119 fiscal year 2016 for the positions vacated in the executive department pursuant to the retirement
120 incentive program had such positions not been vacated.

121 (i) The comptroller, in conjunction with the state board of retirement, shall certify to
122 the house and senate committees on ways and means by June 15, 2015 the total value of
123 compensation of the last pay period prior to June 30, 2015, by line item, of each individual who
124 has enrolled in the retirement incentive program. For each such position, the list shall also
125 include the item of appropriation in which the position is funded, the name of the agency,
126 bureau, department, office, or division of the executive department, which is funded by such
127 item, the classification title of the position, the salary range for the title and the salary payable to
128 the person who retired from the position, the retirement date for the person who retired or will
129 retire from position, and the amounts of accrued vacation time, unused sick leave, or other
130 accrued benefit for each such employee as of the employee's date of retirement.

131 (j) The executive director of the public employee retirement administration
132 commission shall analyze, study, and evaluate the costs and actuarial liabilities attributable to the
133 additional benefits payable in accordance with this act. Said commission shall file a report with
134 the secretary of administration and finance, the joint committee on public service and the house
135 and senate committees on ways and means on or before October 16, 2015.

136

137 (k) On or before January 15, 2016, the secretary of administration and finance shall
138 file with the house and senate committees on ways and means a report detailing the number of
139 employees participating in the retirement incentive program, the estimated salary savings in
140 fiscal years 2015 and 2016 as a result of such employees' participation, the number of positions
141 that have been or are expected to be refilled before June 30, 2016, and the estimated salary costs
142 in fiscal years 2015 and 2016 on account of such refilled positions.