

SENATE No. 1384

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 allowing for payment in lieu of a disability allowance.

PETITION OF:

NAME:

John F. Keenan

William N. Brownsberger

DISTRICT/ADDRESS:

Norfolk and Plymouth

Second Suffolk and Middlesex

SENATE No. 1384

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1384) of John F. Keenan and William N. Brownsberger for legislation to allow for payment in lieu of a disability allowance. Public Service.

The Commonwealth of Massachusetts

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

An Act allowing for payment in lieu of a disability allowance.

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. Section 7 of Chapter 32 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting after the word “Allowance” in line 1 and line
3 48, in each instance, the words:- “or Payment”

4 SECTION 2. Said section 7 of said Chapter 32, as so appearing, is hereby amended by
5 inserting at the end thereof the following new subsection:-

6 (f) Notwithstanding the provisions of subsections (a) through (e), any member with ten or
7 fewer years of creditable service who has been granted an accidental disability retirement under
8 this section may elect to receive, in lieu of any allowance to such member under the provisions
9 of this section, payments under the provisions of section 106.

10 SECTION 3. Chapter 32 of the General Laws, as so appearing, is hereby amended by
11 inserting the following new section:-

Section 106. (a) Notwithstanding the provisions of subsections (a) through (e) of Section 7, any member with ten or fewer years of creditable service who has been granted an accidental disability retirement under section 7 may elect to receive, in lieu of a retirement allowance payable under said section, a yearly amount of payments equal to whichever is the greater of: (i) two times the annual rate of the member's regular compensation on the date such injury was sustained or such hazard was undergone on the account of which the member was granted an accidental disability allowance; or; (ii) two times the average annual rate of the member's regular compensation for the 12-month period for which the member last received regular compensation immediately preceding the date the member's retirement allowance under section 7 became effective.

(b) For purposes of determining the amount of payments under this section on account of the retirement of any member classified in Group 4 as a call fireman or reserve policeman, who was performing the duties of a call fireman or reserve policeman at the time the injury was sustained or the hazard was undergone which resulted in the granting of a disability retirement allowance, the annual rate of regular compensation of such member shall be considered to be the same as that of permanent firemen or policemen of the lowest rank and grade, as the case may be, in the city or town in which the member was employed; provided, that if there are no such permanent firemen or policemen, then the annual rate of the member's regular compensation shall be considered for such purposes to be seven-thousand five-hundred dollars.

(c) The election to receive payments under this section in lieu of an allowance under sections 7 and 12, shall be made by such member in writing on a prescribed form filed with the board and shall be irrevocable; provided, that no election to receive benefits under this section shall be valid unless the form is filed with the board on or before the date the member's

allowance under section 7 would become effective. Upon receipt of such form by the board, the election shall take effect as of the date the member's allowance under section 7 would have become effective; provided, that if the member's death occurs after the member's application under section 7 is approved but before the date the member receives a first payment under this section, then the member's surviving spouse shall have the option of receiving the payments due under this section or electing to receive an allowance and beneficiary payments in accordance with the sections 7 and 12 of this chapter; provided further that if there is no surviving spouse, then the amount of any accumulated total deductions credited to the member's account in the annuity savings fund of the system shall be paid in accordance with subsection (2) of section 11.

(d) For any member who is married, an election to receive payments under this section shall not be valid unless it is accompanied by the signature of the member's spouse indicating that the member's spouse has knowledge and understanding of the disability retirement allowance election. If any member who is married files an election which is not so accompanied, the board shall within fifteen days notify the member's spouse by registered mail of the option election and of the spouse's right to sign and return an acknowledgment of receipt and understanding of such information within thirty days after receipt of the acknowledgment. The election shall not take effect until it is accompanied by the signature of the member's spouse; provided, however, that no such signature shall be required if the spouse fails to submit such signed acknowledgment on or before the thirtieth day from receipt of the information from the retirement board. Such election made prior to the spousal notification may be changed in accordance with the spouse's understanding of the retirement allowance selected, or at any later time otherwise permitted under this chapter. Nothing in this paragraph shall be deemed to affect the effective date of any retirement allowance. The provisions of this section relative to the

member's election being accompanied by the member's spouse shall not apply in the case of a member who is divorced and who has previously filed with the retirement board a domestic relations order which has been entered by the probate court and provides for the option to be elected by the member; provided further, election to receive payments under this section shall not be valid unless it is accompanied by the signature of the member and the member's spouse indicating that each understands that the election is irrevocable, that they have received detailed information regarding the election from the retirement board, that they have been advised by the retirement board to seek professional advice from attorneys, tax advisors, actuaries and other professionals prior to making the election, and that they are prohibited from bringing any action or making any claim against the retirement board, its members, employees and agents, arising from the member's election to receive benefits under this section.

(e) The Public Employee Retirement Administration shall prepare and provide to retirement boards for the benefit of members considering electing payments under this section, detailed information regarding, among other things, the differences between the value of payments and eligibility for benefits under this section and those under sections 7 and 12 of this chapter, the irrevocability of the election, and the advisability of seeking professional guidance from attorneys, tax advisors, actuaries and other professionals.

The retirement board shall provide the member and the member's spouse, when applicable, with detailed information regarding the election of receiving benefits under this section in order for the member and spouse to make an informed decision regarding said election. Such information shall include that prepared and provided by the Public Employee Retirement Administration Commission.

(f) If the member dies after receiving the first payment under this section, then the surviving spouse of such member shall receive the payments the member would have received had the member survived. In the event there is no surviving spouse of such member or such surviving spouse dies, then the payments the member or surviving spouse would have received shall be paid for the benefit of such surviving minor children to a legally appointed guardian. Payments to the surviving minor children of the member, or to a member's child reaching the age of eighteen unless physically or mentally incapacitated from earning on the date of death of the member, or if a full-time student upon reaching the age of 22, or on the date a child ceases to be a full-time student, or upon the child's marriage, whichever first occurs, or upon death, shall cease. The word "child" shall include a legally adopted child of the deceased member. The words "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located.

(g) The member shall receive such payments for a period of five years from the date the member's retirement allowance became effective under section 7, whereupon the member's right to such payments shall cease, and any rights under this chapter, chapter 32A and chapter 32b shall be forfeited.

Payments provided for under this chapter shall be due and payable for the month on the last day of each month during the continuance of such payments. The yearly amount of any such payments shall be computed to the nearest cent which makes such amount an integral multiple of twelve cents. The amount of each full monthly payment shall be one twelfth of the corresponding

103 yearly amount and the first such full payment shall be due and payable on the last day of the
104 month following the month in which falls the date as of which such disability allowance under
105 section 7 would have become effective. If such effective date is a day other than the last day of
106 the month in which it falls, a pro rata payment shall be allowed for the period following such
107 date and ending with such last day. No payment shall be made for any period prior to the day
108 next following the date for which such member last received regular compensation for his
109 employment in the public service. A retirement board may require a member entitled to receive
110 such payment to designate a financial institution to which shall be directly deposited payments
111 under this section.

112 (h) The provisions of section 8 shall not apply to a member receiving payments under this
113 section.