

The Commonwealth of Massachusetts

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

SENATE,

The committee on Ways and Means, to whom was referred the House Bill providing for an employee retirement incentive program (House, No. 3189, amended); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 44; by striking out the title and inserting in place thereof the following title:- “An Act relative to state personnel”; and by striking out the emergency preamble and inserting in place thereof the following emergency preamble:- “*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.”.

For the committee,
Karen E. Spilka

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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 meanings:

4 “Agency”, the office of the governor, an executive office established in section 2 of
5 chapter 6A of the General Laws or an agency, bureau, department, office or division of the
6 commonwealth within or reporting to such executive office.

7 “Critical position”, a position that is important to an agency’s ability to carry out its
8 mission, as determined by the secretary of administration and finance, after consultation with the
9 head of the agency and the secretary of the relevant executive office.

10 “Executive department employee”, a person who is employed by an agency.

11 SECTION 2. (a) Notwithstanding any general or special law to the contrary, the secretary
12 of administration and finance shall achieve direct payroll savings of not less than \$325,100,000
13 in fiscal year 2016 through implementation of this act.

14 (b) The savings in subsection (a) may be achieved through: (i) continuing the interim
15 hiring controls policy, dated January 9, 2015, through fiscal year 2016; (ii) offering 1-time

16 payments to encourage employees to resign or retire; (iii) implementing the retirement incentive
17 program as described in sections 3 to 8, inclusive; or (iv) requiring layoffs of employees in
18 accordance with any relevant collective bargaining agreements. The total number of eligible
19 employees who retire, resign or are laid off pursuant to this act shall not exceed 4,500.

20 (c) Not later than April 27, 2015, the secretary of administration and finance may
21 designate, in writing, critical positions which shall not be eligible for the programs in this act and
22 shall file with the house and senate committees on ways and means and the state board of
23 retirement a report listing the critical positions by agency.

24 (d) The secretary of administration and finance shall, not later than April 27, 2015,
25 provide notice to the state board of retirement, established in section 18 of chapter 10 of the
26 General Laws, on the number of employees anticipated to separate from state service under
27 clauses (i), (ii) and (iv) of subsection (b). The board shall reduce the total number of eligible
28 employees that retire under sections 3 to 8, inclusive, by the number of employees anticipated to
29 separate from state service under said clauses (i), (ii) and (iv).

30 SECTION 3. (a) Notwithstanding chapter 32 of the General Laws or any other general or
31 special law to the contrary, the state board of retirement may establish and implement a
32 retirement incentive for executive department employees, in this act referred to as the retirement
33 incentive program. The board shall prioritize its selection of participants in the retirement
34 incentive program based on length of creditable service with lengthier service receiving priority.

35 (b) To be considered eligible by the state board of retirement for any of the benefit
36 options under the retirement incentive program, an employee shall: (i) be an executive
37 department employee as of the effective date of this act and through the date of retirement

38 established in section 4; (ii) be a member in service of the state employees' retirement system
39 pursuant to clause (i) of paragraph (a) of subdivision (1) of section 3 of chapter 32 of the General
40 Laws as of the effective date of this act; (iii) be classified in Group 1 of the state employees'
41 retirement system pursuant to paragraph (g) of subdivision (2) of said section 3 of said chapter
42 32 as of the effective date of this act; (iv) be eligible to receive a superannuation retirement
43 allowance in the absence of the retirement incentive program pursuant to subdivision (1) of
44 section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 as of the effective
45 date of this act; and (v) file a timely application with the board pursuant to said section 4.

46 (c) Notwithstanding subsections (a) and (b), the following employees shall not be eligible
47 to receive any benefit from the retirement incentive program: (i) employees whose compensation
48 is funded from a capital appropriation, federal grant or trust as each is defined in section 1 of
49 chapter 29 of the General Laws as of the filing date for the application pursuant to section 4; (ii)
50 elected officials; (iii) employees who are eligible for the retirement incentive program
51 established pursuant to section 40 of chapter 79 of the acts of 2014; and (iv) employees or
52 members of the state employees' retirement system who, as of the effective date of this act, are
53 not contributing to the retirement system pursuant to section 90G3/4 of chapter 32 of the General
54 Laws or have not completed reinstatement pursuant to section 105 of said chapter 32.

55 (d) An employee eligible under this act may not utilize the spousal benefit established in
56 section 322 of chapter 149 of the acts of 2004 in combination with the benefit options provided
57 in section 5.

58 (e) The Massachusetts Transportation Trust Fund established in section 4 of chapter 6C
59 of the General Laws shall not be considered a trust for the purposes of this section and an

60 employee whose compensation is paid from the fund shall be eligible to receive a benefit from
61 the retirement incentive program provided that the employee satisfies all of the other
62 requirements for eligibility.

63 SECTION 4. Notwithstanding section 5 of chapter 32 of the General Laws, the state
64 board of retirement shall receive an eligible employee's application for retirement on or after
65 April 27, 2015 but not later than May 29, 2015 in order for the employee to be eligible to receive
66 the retirement benefit provided in this act. The retirement date requested in an eligible
67 employee's application shall be June 30, 2015. The application for retirement may be delivered
68 to the board in person, by mail or in a manner as the board may approve, including by electronic
69 means.

70 SECTION 5. (a) An employee who is eligible for the retirement incentive program may
71 request in the application for retirement that the state board of retirement credit the employee
72 with an additional retirement benefit pursuant to this section. Each such employee shall request
73 and receive a combination of years of creditable service and years of age, in full-year increments;
74 provided, however, that the sum of the years of creditable service and years of age shall not be
75 greater than 5 years to determine the employee's superannuation retirement allowance pursuant
76 to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

77 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,
78 as determined pursuant to said section 5 of said chapter 32, of any employee who retires and
79 receives the retirement incentive program benefit shall not exceed 80 per cent of the average
80 annual rate of the employee's regular compensation as determined pursuant to said section 5 of
81 said chapter 32.

82 (b) An employee shall not: (i) be eligible for more than 1 of the incentives offered in this
83 act; (ii) become eligible for 1 incentive by virtue of the application of a different incentive; or
84 (iii) utilize the incentive to qualify for any other rights or benefits under chapter 32 of the
85 General Laws. An employee who retires and receives an additional retirement benefit pursuant
86 to this act shall be considered retired for superannuation under said chapter 32 and shall be
87 subject to said chapter 32. A married employee who retires and receives an additional benefit
88 under this act shall be subject to the requirements of the second paragraph of subdivision (1) of
89 section 12 of said chapter 32.

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

96 SECTION 6. The state board of retirement shall provide retirement counseling to
97 employees who apply to retire under the retirement incentive program or to eligible employees
98 who request retirement counseling. Counseling by the board shall include, but need not be
99 limited to: (i) a full explanation of the retirement benefits provided by the retirement incentive
100 program; (ii) a comparison of the expected lifetime retirement benefits payable to an employee
101 under the retirement incentive program and under chapter 32 of the General Laws; (iii) the
102 election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on
103 employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to
104 the retirement allowance; and (vi) the effect of federal and state taxation on retirement income.

105 The group insurance commission shall provide counseling regarding the provision of
106 health care benefits under chapter 32A of the General Laws.

107 Each employee shall sign a statement that the employee has received counseling or does
108 not want to receive counseling prior to the approval by the board of the employee's application
109 for superannuation benefits and the additional benefit provided by this act.

110 SECTION 7. Pursuant to section 98 of chapter 32 of the General Laws, the state treasurer
111 may make advance payments in an amount not to exceed any retirement allowance actually due
112 and under any terms and conditions the state board of retirement may prescribe to an employee
113 who is eligible for retirement under the retirement incentive program and who does not receive a
114 retirement allowance within 60 days of the effective date of retirement. Section 91 of said
115 chapter 32 shall not apply for calendar year 2015 to previously retired employees of the board
116 hired exclusively to implement this act.

117 SECTION 8. Notwithstanding any general or special law or any collective bargaining
118 agreement or other employment contract to the contrary and in consideration of the benefits
119 conferred in this act, an employee who elects to retire under this act and is eligible to receive a
120 payment in lieu of accrued vacation time, unused sick leave or other benefit under the collective
121 bargaining agreement or other employment contract shall waive the requirement that the
122 payment shall be remitted within 30 days and shall instead receive: 1/3 of the payment on
123 September 1, 2015; 1/3 of the payment on July 1, 2016; and 1/3 of the payment on July 1, 2017.
124 An employee who elects to retire under this act shall sign a statement that the employee has
125 agreed to receive the payment according to the schedule outlined in this section prior to the
126 approval of the employee's application for superannuation benefits and the additional benefit

127 provided by this act by the state board of retirement. The board shall deny an application for the
128 retirement incentive program under this act by an employee who belongs to a bargaining unit for
129 which a collective bargaining agreement inconsistent with this section is in effect at the time of
130 the application unless the employee organization representing the employee has filed with the
131 board and the secretary of administration and finance a statement waiving any inconsistent
132 provisions of the agreement on behalf of all members of the bargaining unit who file applications
133 for the retirement incentive program pursuant to this act.

134 SECTION 9. The secretary of an executive office, with the approval of the secretary of
135 administration and finance, may fill an executive department position vacated as a result of
136 participation by an eligible employee in the retirement incentive program and the governor may
137 fill a position in the office of the governor vacated by such participation; provided, however, that
138 the total annualized cost of regular compensation paid out by the commonwealth in fiscal year
139 2016 for all refilled positions shall not exceed 20 per cent of the total annualized cost of regular
140 compensation that would have been paid out by the commonwealth during fiscal year 2016 for
141 positions vacated in the executive department pursuant to the retirement incentive program had
142 the positions not been vacated; provided further, that the total annualized cost of regular
143 compensation paid out by the commonwealth in fiscal year 2017 for all refilled positions shall
144 not exceed 20 per cent of the total annualized cost of regular compensation which would have
145 been paid out by the commonwealth during fiscal year 2017 for the positions vacated in the
146 executive department pursuant to the retirement incentive program had the positions not been
147 vacated.

148 Notwithstanding section 91 of chapter 32 of the General Laws or section 181 of chapter
149 25 of the acts of 2009, an employee retired under this act shall not be re-employed in state

150 service, whether as a consultant, an independent contractor or a person whose regular duties
151 require time devoted to state service, unless the duration of the state service lasts not more than
152 90 days and unless the salary costs of the service are counted toward the 20 per cent limitation
153 contained in the first paragraph of this section. A member who retired under the retirement
154 incentive program shall be eligible for reinstatement under section 105 of said chapter 32.

155 SECTION 10. Not later than May 15, 2015, the secretary of administration and finance
156 shall file with the house and senate committees on ways and means a report detailing: the
157 number of employee applications received for the retirement incentive program to date; the
158 official positions of the employees; an estimate of how many additional applications are
159 anticipated to be received by the May 29, 2015 application deadline; and the impact of received
160 and anticipated applications on each agency's ability to carry out its responsibilities as provided
161 by law.

162 SECTION 11. Not later than May 15, 2015, the secretary of administration and finance
163 shall file with the house and senate committees on ways and means a report detailing the
164 implementation of clauses (i), (ii) and (iv) of subsection (b) of section 2, including: (i) the
165 number of employees who separated from state service pursuant to each clause; (ii) the official
166 positions of the employees; (iii) an estimate of how many additional separations the secretary
167 anticipates by June 30, 2015; (iv) the impact that all completed and anticipated separations will
168 have on each agency's ability to carry out its responsibilities as provided by law; and (v) the
169 estimated salary savings in fiscal years 2015, 2016 and 2017.

170 SECTION 12. The comptroller, in conjunction with the state board of retirement, shall
171 certify to the house and senate committees on ways and means by June 15, 2015 the total value

172 of compensation of the last pay period prior to June 30, 2015, by line item, of each individual
173 who has enrolled in the retirement incentive program. For each position, the list shall include:
174 the item of appropriation in which the position is funded; the name of the agency, bureau,
175 department, office or division of the executive department that is funded by the item; the
176 classification title of the position; the salary range for the title and the salary payable to the
177 person who retired from the position; the retirement date for the person who retired or will retire
178 from the position; and the amounts of accrued vacation time, unused sick leave or other accrued
179 benefit for each employee as of the employee's date of retirement.

180 SECTION 13. The executive director of the public employee retirement administration
181 commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the
182 additional benefits payable pursuant to this act. The commission shall file a report with the
183 secretary of administration and finance, the joint committee on public service and the house and
184 senate committees on ways and means by January 15, 2016.

185 SECTION 14. The secretary of administration and finance shall file with the house and
186 senate committees on ways and means reports detailing: the number of employees participating
187 in the retirement incentive program; the estimated salary savings in fiscal years 2016 and 2017 as
188 a result of the employees' participation; the number of positions that have been or are expected
189 to be refilled before June 30, 2016; and the estimated salary costs in fiscal years 2016 and 2017
190 attributable to the refilled positions. For each position that has not been refilled, the reports shall
191 detail how the duties and expertise associated with the position have been or will be fulfilled or
192 otherwise accounted for by the relevant agency. The first report shall be filed by December 1,
193 2015 and the second report shall be filed by December 1, 2016.