

# SENATE . . . . . No. 44

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## The Commonwealth of Massachusetts

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

**The Commonwealth of Massachusetts**

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

established in section 4; (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 in the absence of the retirement incentive program pursuant to subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 as of the effective date of this act; and (v) file a timely application with the board pursuant to said section 4.

(c) Notwithstanding subsections (a) and (b), the following employees shall not be eligible to receive any benefit from the 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 4; (ii) elected officials; (iii) employees who are eligible for the retirement incentive program established pursuant to section 40 of chapter 79 of the acts of 2014; and (iv) 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.

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

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

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

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

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

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined pursuant to said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent 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: (i) be eligible for more than 1 of the incentives offered in this act; (ii) become eligible for 1 incentive by virtue of the application of a different incentive; or (iii) utilize the incentive to qualify for any other rights or benefits under 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 under said chapter 32 and shall be subject to said chapter 32. A married employee who retires and receives an additional benefit under 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 retirement incentive program who has served in more than 1 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 6. The state board of retirement shall provide retirement counseling to employees who apply to retire under the retirement incentive program or to eligible employees who request retirement counseling. Counseling by the board shall include, but need not be limited to: (i) a full explanation of the retirement benefits provided by the retirement incentive program; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under chapter 32 of the General Laws; (iii) the election of a retirement option under 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.

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

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

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



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

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

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

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