

**SENATE . . . . . No. 49**

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Text of amendment number (6) relative to Comprehensive Early Retirement Incentive Program offered by Mr. Rush to the Ways and Means amendment (Senate, No. 44)

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**The Commonwealth of Massachusetts**

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

1           by striking all language after the enacting clause and inserting in place thereof the  
2 following new text:-

3           (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to  
4 the contrary, the state board of retirement, established under section 18 of chapter 10 of the  
5 General Laws, shall establish and implement a retirement incentive for public employees,  
6 hereinafter referred to as the retirement incentive program, in accordance with this section. In  
7 order to be deemed eligible by the board for any of the benefit options under the retirement  
8 incentive program, an employee: (i) shall be an employee of the commonwealth on the effective  
9 date of this act; (ii) shall be a member in active service of the state retirement system on the  
10 effective date of this act; (iii) shall be classified in Group 1 of said retirement system in  
11 accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible  
12 to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5  
13 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement  
14 requested in his written application for retirement with the board; (v) shall have received his pay  
15 advices via the commonwealth's human resources compensation management system or the  
16 University of Massachusetts' human resources management information system or whose regular

17 compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the  
18 General Laws; and (vi) shall have filed a written application with the board in accordance with  
19 subsection (b).

20 The application filed for retirement under this act may be delivered in person or by mail  
21 to the state board of retirement. No employee shall be eligible for more than 1 of the incentives  
22 offered in this act and no employee may become eligible for 1 incentive by virtue of the  
23 application of a different incentive.

24 Words used in this act shall have the same meaning as when they are used in said chapter  
25 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An  
26 employee who retires and receives an additional benefit in accordance with this act shall be  
27 deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said  
28 chapter 32.

29 Elected officials and anyone serving as a chief justice or an associate justice of the  
30 supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of  
31 the trial court shall not be eligible to participate in the retirement incentive program.

32 (b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a  
33 retirement date within 4 months of the filing of an application for superannuation retirement, in  
34 order to receive the retirement benefit provided by this act, an eligible employee, except as  
35 otherwise provided in this section, shall file his application for retirement with the state board of  
36 retirement after April 15,2015 and not later than July 15,2015. The retirement date requested  
37 shall be July 31,2015, except for employees of the state board of retirement for whom the  
38 retirement date requested shall be November 1, 2015.

39 To ensure the successful completion of the academic year, employees of the University of  
40 Massachusetts and employees of state and community colleges shall file their applications for  
41 retirement within the period required in this section, but the retirement date requested shall be  
42 December 31, 2015. The president of the University of Massachusetts and the chancellor of  
43 higher education may identify job titles which may elect to retire earlier than December 31,  
44 2015. Said president and said chancellor shall each file a complete list of titles and corresponding  
45 job title codes with the state board of retirement not later than January 15, 2016, but no  
46 retirement shall be effective earlier than August 29, 2015.

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

54 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,  
55 as determined in accordance with said section 5 of said chapter 32, of any employee who retires  
56 and receives the retirement incentive program benefit shall not exceed 80 per cent of the average  
57 annual rate of his regular compensation as determined in accordance with said section 5 of said  
58 chapter 32.

59 (d) For a married employee who retires and receives an additional benefit under this act,  
60 an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be

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

72 (e) The state board of retirement shall provide retirement counseling to employees who  
73 choose to consider retiring or who choose to retire under the retirement incentive program. Such  
74 counseling shall include, but not be limited to, the following: (i) a full explanation of the  
75 retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement  
76 benefits payable to an employee under the retirement incentive program and under the existing  
77 chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said  
78 chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the  
79 payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal  
80 and state taxation on retirement income. The group insurance commission shall provide  
81 counseling about the provision of health care benefits under chapter 32A of the General Laws.  
82 Each such employee shall sign a statement that he has received the counseling or that he does not  
83 want to receive the counseling prior to the approval by the state board of retirement of such

84 employee's application for superannuation benefits and the additional benefit provided by this  
85 act.

86 Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments  
87 in an amount not to exceed any retirement allowance actually due to an employee who is eligible  
88 for and who has filed an application for retirement under the retirement incentive program and  
89 who does not receive a retirement allowance within 60 days after submitting a retirement  
90 application, during such period as is necessary for the processing of the application for  
91 retirement. Notwithstanding any special or general law to the contrary, the state board of  
92 retirement may employ retired former employees of said board through December 31, 2015, to  
93 assist it in the implementation of the retirement incentive program authorized by this section, and  
94 in the administration of tasks related thereto.

95 (f) The secretary of administration and finance may fill an executive branch position  
96 vacated as a result of an applicant's participation in the retirement incentive program if the  
97 secretary determines that the position is vital to the public health, public safety or other critical  
98 operations of the commonwealth. The total annualized cost of regular compensation paid out by  
99 the commonwealth in fiscal year 2016 for refilled positions in the executive branch shall not  
100 exceed 20 per cent of the total annualized cost of regular compensation which would have been  
101 paid out by the commonwealth during fiscal year 2016 for the positions vacated in the executive  
102 branch pursuant to the retirement incentive program had such positions not been vacated;  
103 provided, further, that the total annualized cost of regular compensation paid out by the  
104 commonwealth in fiscal year 2017 for refilled positions in the executive branch shall not exceed  
105 20 per cent of the total annualized cost of regular compensation which would have been paid out

106 by the commonwealth during fiscal year 2017 for the positions vacated in the executive branch  
107 pursuant to the retirement incentive program had such positions not been vacated.

108           The refilling of positions vacated by employees from federal and trust accounts pursuant  
109 to retirement incentive program shall not be subject to the limitations set forth in the retirement  
110 incentive program; provided further, that agencies with positions vacated from federal and trust  
111 accounts shall first fill such positions with qualified persons currently employed by the  
112 commonwealth and paid with state funds; provided, however, that if no such qualified personnel  
113 are currently employed by the commonwealth, agencies may hire new employees to backfill such  
114 positions vacated from federal and trust accounts.

115           (g) Notwithstanding any general or special law to the contrary, no person shall be hired or  
116 appointed by the trial court on a permanent or temporary basis to fill a position made vacant by  
117 the retirement of an employee receiving an additional benefit in accordance with this act and the  
118 comptroller shall not authorize the payment of any regular compensation, including paid leave,  
119 vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay  
120 and salary differentials from any account funded by an appropriation to any such person on or  
121 after October 1,2015 until June 30,2016. If the court administrator determines that a position is  
122 critical and essential to the operations of or services provided by the commonwealth, such court  
123 administrator shall include such position in a schedule which shall include: (i) the classification  
124 title of each position; (ii) the item of appropriation in which the position is funded; (iii) the  
125 number of positions listed in the schedule with the title; (iv) the salary range payable to each  
126 position; and (v) the approximate date during the fiscal period of October 1, 2015 to June 30,  
127 2016, inclusive, that it is determined that the position shall be filled. Said court administrator  
128 shall prepare 1 or more supplementary schedules in the same form if the court administrator shall

129 determine that a supplementary schedule shall be necessary. The schedule shall be filed with the  
130 house and senate committees on ways and means and the positions may be filled before June 30,  
131 2016 but in no instance shall such positions be filled earlier than 10 days following the filing of  
132 the schedule with the committees. The total annualized cost of regular compensation paid out by  
133 the commonwealth in fiscal year 2016 for refilled positions in the trial court shall not exceed 20  
134 per cent of the total annualized cost of regular compensation which would have been paid out by  
135 the commonwealth during fiscal year 2016 for the positions vacated in the trial court pursuant to  
136 the judiciary retirement incentive program had such positions not been vacated. The total  
137 annualized cost of regular compensation paid out by the commonwealth in fiscal year 2017 for  
138 refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of  
139 regular compensation which would have been paid out by the commonwealth during fiscal year  
140 2017 for the positions vacated in the trial court pursuant to the judiciary retirement incentive  
141 program had such positions not been vacated.

142 (h) The comptroller, in conjunction with the state board of retirement, shall certify to the  
143 house and senate committees on ways and means by November 1, 2015 the total value of  
144 compensation of the last pay period prior to October 1, 2015, by line item, of each individual that  
145 has enrolled in the retirement incentive program.

146 (i) Notwithstanding any general or special law to the contrary, no person shall be hired by  
147 a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or  
148 temporary basis to fill any position made vacant by the retirement of an employee receiving an  
149 additional benefit in accordance with this act and the comptroller shall not authorize the payment  
150 of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment  
151 in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account

152 funded by an appropriation to any such person on or after October 1, 2015 until June 30, 2016. If  
153 the secretary of administration and finance determines that a position is critical and essential to  
154 the operations of 1 or more services provided by the commonwealth, said secretary shall include  
155 the position in a schedule which shall include: (i) the classification title of each position; (ii) the  
156 item of appropriation in which the position is funded; (iii) the number of positions listed in the  
157 schedule with such title; (iv) the salary range payable to each position; and (v) the approximate  
158 date during the fiscal period of October 1, 2013 to June 30, 2016, inclusive, that said secretary  
159 shall have determined that the position shall be filled. The secretary shall prepare 1 or more  
160 supplementary schedules in the same form if he shall determine that a supplementary schedule  
161 shall be necessary. The schedule shall be filed with the house and senate committees on ways  
162 and means and said secretary may fill any such positions before June 30, 2016 but in no instance  
163 shall such positions be filled earlier than 10 days following the filing of the schedule with said  
164 committees. The total annualized cost of regular compensation paid out by the commonwealth in  
165 fiscal year 2016 for refilled positions in state agencies shall not exceed 20 per cent of the total  
166 annualized cost of regular compensation which would have been paid out by the commonwealth  
167 during fiscal year 2016 for the positions vacated in state agencies pursuant to the retirement  
168 incentive program had such positions not been vacated. The total annualized cost of regular  
169 compensation paid out by the commonwealth in fiscal year 2017 for refilled positions in state  
170 agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which  
171 would have been paid out by the commonwealth during fiscal year 2017 for the positions vacated  
172 in state agencies pursuant to the retirement incentive program had such positions not been  
173 vacated.

174           The comptroller shall authorize the payment of any regular compensation, including paid  
175 leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime  
176 pay and salary differentials for position titles on file pursuant to subsection (j).

177           (j) The secretary of administration and finance shall list each position made vacant by the  
178 retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the  
179 General Laws, receiving an additional benefit in accordance with this act and shall file such list  
180 with the house and senate committees on ways and means and the comptroller not later than  
181 October 15, 2015 and shall supplement the list as may be deemed necessary through June 30,  
182 2017. For each such position, the list shall include the item of appropriation in which the position  
183 is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is  
184 funded by such item, the classification title of the position, the salary range for the title and the  
185 salary payable to the person who retired from the position. The list and any supplements shall  
186 indicate which of these positions were refilled, the date on which they were refilled and the  
187 annual salary of each refilled position.

188           (k) Notwithstanding any general or special law to the contrary, no person shall be hired  
189 by a state or community college in the system of public institutions of higher education, as  
190 defined in section 5 of chapter 15A of the General Laws, but excluding the University of  
191 Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or  
192 temporary basis to fill any position made vacant by the retirement of an employee receiving an  
193 additional benefit in accordance with this act and the comptroller shall not authorize the payment  
194 of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment  
195 in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account  
196 funded by an appropriation to any such person on or after October 1, 2015 until June 30, 2017. If

197 it is determined that a position is critical and essential to the operations of 1 or more services  
198 provided by the commonwealth, the board of higher education shall include the position in a  
199 schedule which shall include: (i) the classification title of each position; (ii) the item of  
200 appropriation in which the position is funded; (iii) the number of positions listed in the schedule  
201 with the title; (iv) the salary range payable to each position; and (v) the approximate date during  
202 the fiscal period of October 1,2015 to June 30, 2017, inclusive, that it is determined that the  
203 position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same  
204 form if said board shall determine that a supplementary schedule shall be necessary. The  
205 schedule shall be filed with the house and senate committees on ways and means and the  
206 positions may be filled before June 30, 2017 but in no instance shall such positions be filled  
207 earlier than 10 days following the filing of the schedule with said committees. The total  
208 annualized cost of regular compensation paid out by the commonwealth in fiscal year 2016 for  
209 refilled positions in the state and community colleges shall not exceed 20 per cent of the total  
210 annualized cost of regular compensation which would have been paid out by the commonwealth  
211 during fiscal year 2016 for the positions vacated in the state and community colleges pursuant to  
212 the retirement incentive program had such positions not been vacated. The total annualized cost  
213 of regular compensation paid out by the commonwealth in fiscal year 2017 for refilled positions  
214 in the state and community colleges shall not exceed 20 per cent of the total annualized cost of  
215 regular compensation which would have been paid out by the commonwealth during fiscal year  
216 2017 for the positions vacated in the state and community colleges pursuant to the retirement  
217 incentive program had such positions not been vacated.

218           The board of higher education shall not create a position title or similar position title  
219 within the same item of appropriation as those contained in the list filed pursuant to section (1)  
220 of this act, before June 30, 2017.

221           The comptroller shall authorize the payment of any regular compensation, including paid  
222 leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime  
223 pay and salary differentials for position titles on file pursuant to subsection (1).

224           (1) The board of higher education shall list each position made vacant by the retirement  
225 of an employee of a state or community college in the system of public institutions of higher  
226 education, as defined in section 5 of chapter 15A of the General Laws, but excluding the  
227 University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an  
228 additional benefit in accordance with this act and shall file such list with the house and senate  
229 committees on ways and means and the comptroller not later than October 15, 2015 and shall  
230 supplement the list as may be deemed necessary through June 30, 2017. For each such position,  
231 the list shall include the item of appropriation in which the position is funded, the name of the  
232 public institution in the system of higher education, as defined in said section 5 of said chapter  
233 15 A, which is funded by such item, the classification title of the position, the salary range for  
234 the title and the salary payable to the person who retired from the position. The list and any  
235 supplements shall indicate which of these positions have been refilled, the date on which they  
236 were refilled and the annual salary of each refilled position.

237           (m) Notwithstanding any general or special law to the contrary, no person shall be hired  
238 by a division of the University of Massachusetts on a permanent or temporary basis to fill any  
239 position made vacant by the retirement of an employee receiving an additional benefit in

240 accordance with this act and the comptroller shall not authorize the payment of any regular  
241 compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of  
242 maintenance, holiday pay, overtime pay and salary differentials from any account funded by an  
243 appropriation to any such person on or after October 1, 2015 until June 30, 2017. If it is  
244 determined that a position is critical and essential to the operations of 1 or more services  
245 provided by the commonwealth, the board of trustees of the University of Massachusetts shall  
246 include such position in a schedule which shall include: (i) the classification title of each  
247 position; (ii) the item of appropriation in which the position is funded; (iii) the number of  
248 positions listed in the schedule with the title; (iv) the salary range payable to each position; and  
249 (v) the approximate date during the fiscal period of October 1, 2015 to June 30, 2017, inclusive,  
250 that it is determined that the position shall be filled. Said board shall prepare 1 or more  
251 supplementary schedules in the same form if said board shall determine that a supplementary  
252 schedule shall be necessary. The schedule shall be filed with the house and senate committees on  
253 ways and means and such positions may be filled prior to June 30, 2017 but in no instance shall  
254 such positions be filled earlier than 10 days following the filing of the schedule with said  
255 committees; provided, that the total annualized cost of regular compensation paid out by the  
256 commonwealth in fiscal year 2016 for refilled positions in the University of Massachusetts shall  
257 not exceed 20 per cent of the total annualized cost of regular compensation which would have  
258 been paid out by the commonwealth during fiscal year 2016 for the positions vacated in the  
259 University of Massachusetts pursuant to the retirement incentive program had such positions not  
260 been vacated. The total annualized cost of regular compensation paid out by the commonwealth  
261 in fiscal year 2017 for refilled positions in the University of Massachusetts shall not exceed 20  
262 per cent of the total annualized cost of regular compensation which would have been paid out by

263 the commonwealth during fiscal year 2017 for the positions vacated in the University of  
264 Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

265 The board of trustees or the president of the University of Massachusetts shall not create  
266 any position title or similar position title within the same item of appropriation as those  
267 contained in the list filed pursuant to section (n) of this act, before June 30, 2017.

268 The comptroller shall authorize the payment of any regular compensation, including paid  
269 leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime  
270 pay and salary differentials for position titles on file pursuant to subsection (n).

271 (n) The board of trustees of the University of Massachusetts shall list each position made  
272 vacant by the retirement of an employee of any division of the University of Massachusetts  
273 receiving an additional benefit in accordance with this act and shall file such list with the house  
274 and senate committees on ways and means and the comptroller not later than October 15, 2015  
275 and shall supplement the list as may be deemed necessary through June 30, 2017. For each such  
276 position, the list shall include the item of appropriation in which the position is funded, the name  
277 of the public institution in the system of higher education, as defined in section 5 of chapter 15A  
278 of the General Laws, which is funded by item, the classification title of the position, the salary  
279 range for the title and the salary payable to the person who retired from the position. The list and  
280 any supplements shall indicate which of these positions were refilled, the date on which they  
281 were refilled and the annual salary of each refilled position.

282 (o) The executive director of the public employee retirement administration commission  
283 shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional  
284 benefits payable in accordance with this act. Said commission shall file a report with the

285 secretary of administration and finance, the joint committee on public service and the house and  
286 senate committees on ways and means on or before January 15, 2016.

287 (p) A state agency with an employee opting into the retirement incentive program under  
288 this act shall submit to the house and senate committees on ways and means a report detailing the  
289 amounts of sick and vacation time accrued for each such employee.

290 (q) Notwithstanding any general or special law or any collective bargaining agreement or  
291 other employment contract to the contrary and in consideration of the benefits conferred in this  
292 act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of  
293 accrued vacation time, unused sick leave or other benefit under such agreement or contract shall  
294 waive the required remittance of that payment within 30 days and shall receive 1/4 of such  
295 payment on October 1, 2015, 1/4 of such payment on July 1, 2016, 1/4 of such payment on July  
296 1, 2017, and 1/4 of such payment on July 1, 2018. Each such employee shall sign a statement  
297 that he has agreed to receive 1/4 of such payment on October 1, 2015, 1/4 of such payment on  
298 July 1, 2016, 1/4 of such payment on July 1, 2017, and 1/4 of such payment on July 1, 2018 prior  
299 to the approval by the state board of retirement of the employee's application for superannuation  
300 benefits and the additional benefit provided by this act. The state board of retirement shall deny  
301 an application for early retirement under this act by an employee who belongs to a bargaining  
302 unit for which a collective bargaining agreement inconsistent with this section is in effect at the  
303 time of that application, unless the employee organization representing that employee has filed  
304 with said board and with the secretary of administration and finance a statement waiving any  
305 such inconsistent provision of the agreement on behalf of all members of the bargaining unit who  
306 file applications under this act.

307 (r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the  
308 General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708  
309 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to  
310 chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority  
311 established pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts  
312 Convention Center Authority established pursuant to chapter 190 of the acts of 1982 may  
313 individually elect to allow their Group 1 employees to participate in the retirement incentive  
314 program by a majority vote of their boards of directors, which vote shall occur not later than  
315 November 1, 2015. Eligibility for the retirement incentive program shall not exceed that  
316 provided in section 1 of this act as applied to the circumstances at the particular authority or  
317 agency. Each authority and agency may restructure the retirement incentive program at its  
318 discretion but the benefit received by a retiree shall not exceed the retirement benefits provided  
319 in section 3. The effective retirement date for employees of the Massachusetts Turnpike  
320 Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources  
321 Authority shall be not earlier than the effective date of this act and not later than June 30, 2016.

322 (s) On or before March 15, 2016, the secretary of administration and finance shall file  
323 with the joint committee on public service and the house and senate committees on ways and  
324 means a report detailing for each state department, including each campus of the University of  
325 Massachusetts and each state and community college, the state-funded full-time equivalent  
326 standard workforce as of June 30, 2017 required to accommodate the spending levels authorized  
327 by the general appropriation act and supplemental appropriation acts for fiscal year 2017, the  
328 number of employees participating in the retirement incentive program, the estimated salary  
329 savings in fiscal years 2016 and 2017 as a result of such employees' participation, the number of

330 positions vacated or expected to be vacated as a result of such employees' participation that have  
331 been or are expected to be refilled and the estimated salary costs in fiscal years 2016 and 2017 on  
332 account of such refilled positions.