

SENATE No. 49

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)

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

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

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing 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. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not 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

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

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

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

determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2016 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2016 for refilled positions in the trial court 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 2016 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2017 for refilled positions in the trial court 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 trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

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

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

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

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

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account 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

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

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

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