

# SENATE . . . . . No. 50

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Senate, April 15, 2015– Text of the Senate amendment to the House Bill providing for an employee retirement incentive program (House, No. 3189, amended) (being the text of Senate document numbered 44, printed as amended)

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## The Commonwealth of Massachusetts

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

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 “Priority fill position”, a position that is important to an agency’s ability to carry out its  
12 mission as determined for each agency by the secretary of the relevant executive office and, if  
13 vacated under this act, may be considered a priority to be refilled pursuant to section 9.

14 SECTION 2. (a) Notwithstanding any general or special law to the contrary, the secretary  
15 of administration and finance shall achieve direct payroll savings of not less than \$325,100,000  
16 or net savings of not less than \$171,900,000 in fiscal year 2016 through implementation of this  
17 act.

18 (b) The savings in subsection (a) may be achieved through: (i) continuing the interim  
19 hiring controls policy, dated January 9, 2015, through fiscal year 2016; (ii) offering 1-time  
20 payments to encourage employees to resign or retire; (iii) implementing the retirement incentive  
21 program as described in sections 3 to 8, inclusive; or (iv) requiring layoffs of employees in  
22 accordance with any relevant collective bargaining agreements. The total number of executive  
23 department employees that may be reduced under this act shall not exceed 4,500.

24 (c) Not later than April 24, 2015, the secretary of administration and finance may  
25 designate, in writing, critical positions which shall not be eligible for the programs in this act and  
26 priority fill positions. Not later than April 24, 2015, the secretary of administration and finance  
27 shall file with the house and senate committees on ways and means and the state board of  
28 retirement a report listing the critical and priority fill positions by agency.

29 (d) The secretary of administration and finance shall, not later than April 24, 2015,  
30 provide notice to the state board of retirement, established in section 18 of chapter 10 of the  
31 General Laws, on the number of executive department employees reduced under clauses (i), (ii)  
32 and (iv) of subsection (b). The board shall reduce the total number of eligible employees that  
33 retire under sections 3 to 8, inclusive, by the number of executive department employees reduced  
34 under said clauses (i), (ii) and (iv).

35           SECTION 3. (a) Notwithstanding chapter 32 of the General Laws or any other general or  
36 special law to the contrary and not before receiving from the secretary of administration and  
37 finance the report required under subsection (c) of section 2 and the notice required under  
38 subsection (d) of said section 2, the state board of retirement may establish and implement a  
39 retirement incentive for executive department employees, in this act referred to as the retirement  
40 incentive program. The board shall prioritize its selection of participants in the retirement  
41 incentive program based on total creditable service as of June 30, 2015 with participants who  
42 have the greater total length of service receiving priority.

43           (b) To be considered eligible by the state board of retirement for any of the benefit  
44 options under the retirement incentive program, an employee shall: (i) be an executive  
45 department employee as of the effective date of this act and through the date of retirement  
46 established in section 4; (ii) be a member in service of the state employees' retirement system  
47 pursuant to clause (i) of paragraph (a) of subdivision (1) of section 3 of chapter 32 of the General  
48 Laws as of the effective date of this act; (iii) be classified in Group 1 of the state employees'  
49 retirement system pursuant to paragraph (g) of subdivision (2) of said section 3 of said chapter  
50 32 as of the effective date of this act; (iv) be eligible to receive a superannuation retirement  
51 allowance in the absence of the retirement incentive program pursuant to subdivision (1) of  
52 section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 as of the effective  
53 date of this act; and (v) file a timely application with the board pursuant to said section 4.

54           (c) Notwithstanding subsections (a) and (b), the following employees shall not be eligible  
55 to receive any benefit from the retirement incentive program: (i) employees whose compensation  
56 is funded from a capital appropriation, federal grant or trust as each is defined in section 1 of  
57 chapter 29 of the General Laws as of the filing date for the application pursuant to section 4; (ii)

58 elected officials; and (iii) employees or members of the state employees' retirement system who,  
59 as of the effective date of this act, are not contributing to the retirement system pursuant to  
60 section 90G3/4 of chapter 32 of the General Laws or have not completed reinstatement pursuant  
61 to section 105 of said chapter 32. An employee who receives any benefit under this act shall not  
62 be eligible for the provisions of section 40 of chapter 79 of the acts of 2014.

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

66 (e) The Massachusetts Transportation Trust Fund established in section 4 of chapter 6C  
67 of the General Laws shall not be considered a trust for the purposes of this section and an  
68 employee whose compensation is paid from the fund shall be eligible to receive a benefit from  
69 the retirement incentive program provided that the employee satisfies all of the other  
70 requirements for eligibility.

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

78 SECTION 5. (a) An employee who is eligible for the retirement incentive program may  
79 request in the application for retirement that the state board of retirement credit the employee

80 with an additional retirement benefit pursuant to this section. Each such employee shall request  
81 and receive a combination of years of creditable service and years of age, in full-year increments;  
82 provided, however, that the sum of the years of creditable service and years of age shall not be  
83 greater than 5 years to determine the employee's superannuation retirement allowance pursuant  
84 to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

85 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,  
86 as determined pursuant to said section 5 of said chapter 32, of any employee who retires and  
87 receives the retirement incentive program benefit shall not exceed  $\frac{4}{5}$  per cent of the average  
88 annual rate of the employee's regular compensation as determined pursuant to said section 5 of  
89 said chapter 32.

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

98 (c) Notwithstanding paragraph (a) of subdivision (2) of section 5 of chapter 32 of the  
99 General Laws, an eligible employee retiring under the retirement incentive program who has  
100 served in more than 1 group shall receive a retirement allowance as if the employee served only  
101 as a Group 1 employee for the entire length of state service and shall not receive a retirement

102 allowance consisting of pro-rated benefits based upon the percentage of total years of service that  
103 the employee rendered in each group.

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

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

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

118 SECTION 7. Pursuant to section 98 of chapter 32 of the General Laws, the state treasurer  
119 may make advance payments in an amount not to exceed any retirement allowance actually due  
120 and under any terms and conditions the state board of retirement may prescribe to an employee  
121 who is eligible for retirement under the retirement incentive program and who does not receive a  
122 retirement allowance within 90days of the effective date of retirement. Section 91 of said chapter

123 32 shall not apply for calendar year 2015 to previously retired employees of the board hired  
124 exclusively to implement this act.

125 SECTION 8. Notwithstanding any general or special law or any collective bargaining  
126 agreement or other employment contract to the contrary and in consideration of the benefits  
127 conferred in this act, an employee who elects to retire under this act and is eligible to receive a  
128 payment in lieu of accrued vacation time, unused sick leave or other benefit under the collective  
129 bargaining agreement or other employment contract shall waive the requirement that the  
130 payment shall be remitted within 30 days and shall instead receive: 1/3 of the payment on  
131 September 1, 2015; 1/3 of the payment on July 1, 2016; and 1/3 of the payment on July 1, 2017.  
132 An employee who elects to retire under this act shall sign a statement that the employee has  
133 agreed to receive the payment according to the schedule outlined in this section prior to the  
134 approval of the employee's application for superannuation benefits and the additional benefit  
135 provided by this act by the state board of retirement. The board shall deny an application for the  
136 retirement incentive program under this act by an employee who belongs to a bargaining unit for  
137 which a collective bargaining agreement inconsistent with this section is in effect at the time of  
138 the application unless the employee organization representing the employee has filed with the  
139 board and the secretary of administration and finance a statement waiving any inconsistent  
140 provisions of the agreement on behalf of all members of the bargaining unit who file applications  
141 for the retirement incentive program pursuant to this act.

142 SECTION 9. The secretary of an executive office, with the approval of the secretary of  
143 administration and finance, may fill an executive department position vacated as a result of  
144 participation by an eligible employee in the retirement incentive program and the governor may  
145 fill a position in the office of the governor vacated by such participation; provided, however, that

146 the total annualized cost of regular compensation paid out by the commonwealth in fiscal year  
147 2016 for all refilled positions shall not exceed 20 per cent of the total annualized cost of regular  
148 compensation that would have been paid out by the commonwealth during fiscal year 2016 for  
149 positions vacated in the executive department pursuant to the retirement incentive program had  
150 the positions not been vacated; provided further, that the total annualized cost of regular  
151 compensation paid out by the commonwealth in fiscal year 2017 for all refilled positions shall  
152 not exceed 20 per cent of the total annualized cost of regular compensation which would have  
153 been paid out by the commonwealth during fiscal year 2017 for the positions vacated in the  
154 executive department pursuant to the retirement incentive program had the positions not been  
155 vacated; and provided further, that when filling vacated positions the secretary of administration  
156 and finance shall ensure that priority fill positions are filled to the maximum extent possible  
157 within the cost constraints of this section before the secretary approves the filling of any other  
158 position that is not a priority fill position.

159 Notwithstanding section 91 of chapter 32 of the General Laws or section 181 of chapter  
160 25 of the acts of 2009, an employee retired under this act shall not be re-employed in state  
161 service, whether as a consultant, an independent contractor or a person whose regular duties  
162 require time devoted to state service, unless the duration of the state service lasts not more than  
163 90 days and unless the salary costs of the service are counted toward the 20 per cent limitation  
164 contained in the first paragraph of this section. A member who retired under the retirement  
165 incentive program shall be eligible for reinstatement under section 105 of said chapter 32.

166 SECTION 10. Not later than May 15, 2015, the secretary of administration and finance  
167 shall file with the house and senate committees on ways and means a report detailing: the  
168 number of employee applications received for the retirement incentive program to date; the



169 official positions of the employees; an estimate of how many additional applications are  
170 anticipated to be received by the May 29, 2015 application deadline; and the impact of received  
171 and anticipated applications on each agency's ability to carry out its responsibilities as provided  
172 by law. The report shall also detail the anticipated direct payroll savings from the retirement  
173 incentive program based on the number of applications received or anticipated to be received on  
174 or before May 29, 2015. If the anticipated direct payroll savings is less than \$325,100,000 or if  
175 the anticipated net savings is less than \$171,900,000 in fiscal year 2016, the report shall describe  
176 in detail which additional measures, including implementation of clauses (i), (ii) and (iv) of  
177 subsection (b) of section 2, shall immediately be instituted so that the total direct payroll savings  
178 shall equal or exceed a net savings of \$171,900,000 in fiscal year 2016.

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

187 SECTION 12. The comptroller, in conjunction with the state board of retirement, shall  
188 certify to the house and senate committees on ways and means by June 15, 2015 the total value  
189 of compensation of the last pay period prior to June 30, 2015, by line item, of each individual  
190 who has enrolled in the retirement incentive program. For each position, the list shall include:  
191 the item of appropriation in which the position is funded; the name of the agency, bureau,

192 department, office or division of the executive department that is funded by the item; the  
193 classification title of the position; the salary range for the title and the salary payable to the  
194 person who retired from the position; the retirement date for the person who retired or will retire  
195 from the position; and the amounts of accrued vacation time, unused sick leave or other accrued  
196 benefit for each employee as of the employee's date of retirement.

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

202 SECTION 14. The secretary of administration and finance shall file with the house and  
203 senate committees on ways and means reports detailing: the number of employees participating  
204 in the retirement incentive program; the estimated salary savings in fiscal years 2016 and 2017 as  
205 a result of the employees' participation; the number of positions that have been or are expected  
206 to be refilled before June 30, 2016; and the estimated salary costs in fiscal years 2016 and 2017  
207 attributable to the refilled positions. For each position that has not been refilled, the reports shall  
208 detail how the duties and expertise associated with the position have been or will be fulfilled or  
209 otherwise accounted for by the relevant agency. The first report shall be filed by December 1,  
210 2015 and the second report shall be filed by December 1, 2016.