

**HOUSE . . . . . No. 2322**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul W. Mark***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act to ensure fair public higher education workplaces.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>1/15/2019</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>1/28/2019</i>
<i>David Biele</i>	<i>4th Suffolk</i>	<i>2/1/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/31/2019</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>2/1/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/31/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/30/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/31/2019</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>2/1/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/30/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/31/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/30/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/24/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/1/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/1/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/29/2019</i>

<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/1/2019</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>1/31/2019</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>1/28/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/30/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/28/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/1/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/1/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/30/2019</i>
<i>John C. Velis</i>	<i>4th Hampden</i>	<i>1/30/2019</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/29/2019</i>

**HOUSE . . . . . No. 2322**

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 2322) of Paul W. Mark and others for legislation to include certain faculty employed at public institutions of higher education in the retirement system for public employees. Public Service.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-First General Court  
(2019-2020)**

An Act to ensure fair public higher education workplaces.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 3(2)(d) of Chapter 32, as appearing in the 2016 Official Edition, is  
2 amended by adding the following new paragraph:

3 For purposes of this section and notwithstanding the provisions of this chapter or any  
4 other general or special law, rule or regulation to the contrary, any faculty who teach the  
5 equivalent of at least two three credit courses per semester or four three or more- credit courses  
6 per calendar year at one or more of the public institutions of higher education, including a  
7 division of continuing education, regardless of funding source, including but not limited to  
8 subsidiary account CC, shall be considered an employee eligible for membership in the state  
9 employees retirement system and shall earn creditable service for such time.

10 SECTION 2. Section 4(2)(b) of Chapter 32, as appearing in the 2016 Official Edition, is  
11 amended by inserting the following in line 459 after the word “membership”:

12 provided, that in the case of any faculty employed at one or more of the public  
13 institutions of higher education, the board shall credit as at least one-half year of service, actual  
14 service teaching the equivalent of at least four three- credit courses per calendar year;

15 SECTION 3. Section 4(2)(c) of Chapter 32, as appearing in the 2016 Official Edition, is  
16 amended by adding the following paragraph:

17 For faculty employed at one or more of the public institutions of higher education, the  
18 board, in accordance with the provisions of this section, shall allow credit for any previous  
19 period of service equivalent to teaching at least four three- credit courses per calendar year at one  
20 or more state higher education institution, including a division of continuing education,  
21 regardless of funding source, including but not limited to subsidiary account CC.

22 SECTION 4. Section 1 of Chapter 32, as appearing in the 2016 Official Edition, is  
23 amended by inserting the following sentence in line 455 after the word “fund”:

24 In the case of part-time faculty employed at one or more of the public institutions of  
25 higher education, the full salary and wages received for teaching credit courses at one or more of  
26 the public institutions of higher education, including a division of continuing education,  
27 regardless of funding source, including but not limited to subsidiary account CC, shall be  
28 regarded as regular compensation and shall be included in the salary on which deductions are to  
29 be paid to the annuity savings fund.

30 SECTION 5. Section 2 ( e ) of chapter 32A of the General Laws, as appearing in the 2016  
31 Official Edition, is hereby amended in line 117 by inserting after the word “hours” the following:  
32 - “; or a faculty member who teaches the equivalent of at least two three or more- credit courses  
33 per semester, or four three or more- credit courses per calendar year at one or more of the public

34 institutions of higher education in the state, as set forth in section 5 of chapter 15A, including a  
35 division of continuing education, regardless of funding source, including but not limited to  
36 subsidiary account CC, and regardless of the term of employment or participation or membership  
37 in a retirement system or plan; provided, that the commonwealth, not the public higher education  
38 institutions, shall bear the cost.”

39 SECTION 6. Notwithstanding any general or special law, rule or regulation to the  
40 contrary, the state employees retirement system shall contribute an amount not less than seven  
41 and one half percent of each employee's regular compensation for all part-time or non-tenure  
42 track faculty members employed at a public institution of higher education who are enrolled in  
43 the Commonwealth’s SMART Plan, as permitted by the federal Omnibus Budget Reconciliation  
44 Act of 1990.

45 SECTION 7. Notwithstanding any general or special law, rule or regulation to the  
46 contrary, all part-time and adjunct faculty shall, subject to collective bargaining with the  
47 exclusive representatives of the full-time and part-time faculty at the public institution of higher  
48 education, receive pay that is equal, on a pro rata basis, with that of full-time, non-tenure track  
49 faculty of comparable qualifications doing comparable work, which shall include, but not be  
50 limited to, teaching, research and service.

51 SECTION 8. Notwithstanding any general or special law, rule or regulation to the  
52 contrary, each public institution of higher education shall establish a process under which part-  
53 time and other non-tenure track faculty, after successful completion of a probationary period,  
54 receive timely notice and priority consideration, consistent with other institutional and state  
55 policies, for part-time and non-tenure track teaching assignments. The provisions of this section

56 are subject to collective bargaining between the public institutions of higher education and the  
57 exclusive representatives of part-time and non-tenure track faculty.

58 SECTION 9. Notwithstanding any general or special law, rule or regulation to the  
59 contrary, each public institution of higher education shall create a process for ensuring that  
60 qualified non-tenure track faculty members receive full and fair consideration in attaining a  
61 tenure-track position when one becomes available, consistent with department needs,  
62 institutional and state affirmative action, and other personnel policies. This process shall ensure  
63 that non-tenure track faculty: (1) accumulate seniority; (2) are notified of job openings prior to  
64 the job being posted outside of the institution; and (3) are interviewed during the search and  
65 screen process. The provisions of this section are subject to collective bargaining between the  
66 public institution of higher education and the exclusive representatives of part time and non-  
67 tenure track faculty.

68 SECTION 10. Subsection (b) of section 7 of chapter 150E of the General Laws, as  
69 appearing in the 2016 Official Edition, is hereby amended by deleting the first sentence and  
70 inserting in place thereof the following sentence:-

71 The employer, other than the chief justice for administration and management, a county  
72 sheriff, the PCA quality home care workforce council, the alcoholic beverage control  
73 commission, or the state lottery commission, shall submit to the appropriate legislative body  
74 within thirty days after the date on which the agreement is executed by the parties, a request for  
75 an appropriation necessary to fund the cost items contained therein; provided, that if the general  
76 court is not in session at that time, such request shall be submitted at the next session thereof. If  
77 the appropriate legislative body duly rejects the request for an appropriation necessary to fund

78 the cost items, such cost items shall be returned to the parties for further bargaining. The  
79 provisions of the preceding two sentences shall not apply to agreements reached by school  
80 committees in cities and towns in which the provisions of section thirty-four of chapter seventy-  
81 one are operative. For the board of higher education and the board of trustees of the University of  
82 Massachusetts, the provision of section seven I of chapter twenty-nine, or any other general or  
83 special law, rule or regulation, shall not preclude the employer from submitting an appropriation  
84 request directly to the general court pursuant to this section.

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86 SECTION 11. Subsection (c) of section 7 of said chapter 150E, as so appearing, is hereby  
87 amended by deleting the first sentence and inserting in place thereof the following sentence:-

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89 The provisions of this paragraph shall apply to the chief justice for administration and  
90 management, a county sheriff, the PCA quality home care workforce council, the department of  
91 early education and care with regard to bargaining with family child care providers, the alcoholic  
92 beverage control commission, Massachusetts Department of Transportation and the state lottery  
93 commission.

94 SECTION 12.

95 Section 5 of Chapter 32A, as appearing in the 2016 Official Edition, is amended by  
96 inserting the following in line 8 after the word “occurs;” the following:-

97 provided, that any employee may elect to have commission health coverage to begin on  
98 the first day of employment;

99           SECTION 13. Nothing in this act shall be construed to either limit or reduce salaries,  
100 benefits or hiring rights in existence at any public institution of higher education at the time this  
101 legislation passes into law.