

HOUSE No. 4276

The Commonwealth of Massachusetts

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

An Act to preserve the practice of including annual payments in lieu of vacation as regular compensation for current retirees and active retirement system members where such benefit existed as of May 2018.

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. Notwithstanding any general or special law to the contrary, a retirement
2 allowance, as defined in section 1 of chapter 32 of the General Laws, to a member inactive, as
3 defined in section 3 of said chapter 32, that included in its calculation the annual amounts paid in
4 lieu of vacation leave upon which contributions or deductions were made to the applicable
5 retirement system, shall not be reduced, modified or changed because of the inclusion of such
6 contributions or deductions.

7 SECTION 2. Notwithstanding any general or special law to the contrary, any amount
8 paid annually to a member who was, as of May 1, 2018, in service, as defined in section 3 of
9 chapter 32 of the General Laws, in lieu of vacation pursuant to any applicable collective
10 bargaining agreement, individual contract for employment, or municipal plan or ordinance in
11 effect on May 1, 2018 and for which the applicable retirement system was accepting regular
12 contributions or deductions as of May 1, 2018, shall be considered regular compensation, as

13 defined in section 1 of said chapter 32. Such payments in lieu of vacation leave subsequent to
14 May 1, 2018 shall continue to qualify as regular compensation only for members who were in
15 service as of May 1, 2018, as long as said payments in lieu of vacation leave are permitted under
16 an applicable collective bargaining agreement, individual contract, or municipal plan or
17 ordinance. To qualify as regular compensation, such annual payments in lieu of vacation leave
18 shall be to a member who consistently participates in a program that is available to all similarly
19 situated employees and shall not have been made primarily in the final three years of
20 employment or as a result of providing retirement notice.

21 SECTION 3. Notwithstanding any general or special law to the contrary, the retirement
22 systems subject to the requirements in sections 1 and 2 of this act shall regard as regular
23 compensation any payments made subsequent to May 1, 2018 that were in lieu of vacation leave
24 to members who were in service as of May 1, 2018 and the systems shall take appropriate
25 measures to effectuate this provision.

26 SECTION 4. Sections 2 and 3 of this Act shall apply only to members who were: i) in
27 service as of May 1, 2018; and ii) had received payment in lieu of vacation leave prior to May 1,
28 2018.