

HOUSE No. 4338

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 18, 2022.

The committee on Ways and Means, to whom was referred the Bill 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 (House, No. 2732), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4338).

For the committee,

AARON MICHLEWITZ.

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to regular compensation for certain retirees and active retirement system members.

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

1 Chapter 32 of the General Laws is hereby amended by adding the following section:-

2 Section 106. (a) Notwithstanding any general or special law to the contrary, a retirement
3 allowance to a member inactive that included in its calculation the annual amounts paid in lieu of
4 vacation leave upon which contributions or deductions were made to the applicable retirement
5 system, shall not be reduced, modified or changed because of the inclusion of such contributions
6 or deductions.

7 (b) Notwithstanding any general or special law to the contrary, any amount paid annually
8 to a member who was, as of May 1, 2018, in service in lieu of vacation leave pursuant to any
9 applicable collective bargaining agreement, individual contract for employment or municipal
10 plan or ordinance in effect on May 1, 2018 and for which the applicable retirement system was
11 accepting regular contributions or deductions as of May 1, 2018, shall be considered regular
12 compensation. Such payments in lieu of vacation leave subsequent to May 1, 2018 shall continue
13 to qualify as regular compensation only for members who were in service as of May 1, 2018, as

14 long as said payments in lieu of vacation leave are permitted under an applicable collective
15 bargaining agreement, individual contract or municipal plan or ordinance. To qualify as regular
16 compensation, such annual payments in lieu of vacation leave shall be to a member who
17 consistently participates in a program that is available to all similarly situated employees and
18 shall not have been made primarily in the final 3 years of employment or as a result of providing
19 retirement notice.

20 (c) Notwithstanding any general or special law to the contrary, the retirement systems
21 subject to the requirements of subsection (a) and (b) shall regard as regular compensation any
22 payment in lieu of vacation leave made subsequent to May 1, 2018 to a member who was in
23 service as of May 1, 2018 and the systems shall take appropriate measures to effectuate this
24 section.

25 (d) Subsections (b) and (c) shall apply only to members who: (i) were in service as of
26 May 1, 2018; and (ii) began receiving payment in lieu of vacation leave prior to May 1, 2018.