

HOUSE No. 4753

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 9, 2022.

The committee on Public Service to whom was referred the petition (accompanied by bill, House, No. 4374) of Adrian C. Madaro (with the approval of the mayor and city council) that the Boston Retirement Board be authorized to increase the accidental disability retirement allowance payable to Scott O'Brien, a retired police officer of the city of Boston, reports recommending that the accompanying bill (House, No. 4753) ought to pass [Local Approval Received].

For the committee,

KENNETH I. GORDON.

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

An Act regarding the disability pension for Scott O'Brien.

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. (a) Notwithstanding any general or special law to the contrary, the Boston
2 Retirement Board shall increase the accidental disability retirement allowance payable to Scott
3 O'Brien, a retired police officer of the police department of the city of Boston who, as a result of
4 injuries sustained while in the performance of his duties on January 16, 2004, is totally and
5 permanently incapacitated from performing the essential duties of a police officer.

6 (b) The annual amount of pension payable to Scott O'Brien shall be equal to the regular
7 rate of compensation which would have been paid had he continued in service as a police officer
8 of the city of Boston at the grade held by him at the time of his retirement until his death or
9 reaching mandatory retirement age, whichever comes first. All amounts paid under this act shall
10 be non-taxable to the extent allowable under state and federal law.

11 (c) Notwithstanding section 91A of chapter 32 of the General Laws or any other general
12 or special law to the contrary, Scott O'Brien's annual earnings, when added to his retirement

13 allowance, may annually earn up to one-half the amount of his retirement allowance without
14 refund penalty.

15 (d) Upon attaining the mandatory retirement age for a police officer of the city of Boston,
16 Scott O'Brien shall receive a pension pursuant to section 7 of said chapter 32, a yearly amount of
17 pension equal to 80 per cent of the annual rate of the compensation he was receiving on the day
18 before he reaches the mandatory retirement age for a police officer in the city of Boston.

19 (e) Notwithstanding any general or special law to the contrary, the benefits granted herein
20 shall be funded and administered by the Boston Retirement Board, consistent with and subject to
21 chapter 32 of the General Laws.

22 SECTION 2. Notwithstanding any general or special law to the contrary, Scott O'Brien
23 shall be entitled to receive indemnification for all hospital, medical and related expenses that
24 have been or may be incurred after the date of his retirement as a result of the

25 injuries sustained by him while in the performance of his duties on January 16, 2004, in
26 accordance with sections 100 and 100B of chapter 41 of the General Laws.

27 SECTION 3. Notwithstanding any general or special law to the contrary, the Boston
28 Retirement Board shall forthwith pay to said Scott O'Brien the amount credited to him as
29 accumulated total deductions in the annuity savings fund of the Boston Retirement Board as of
30 the effective date of this act.

31 SECTION 4. Notwithstanding any general or special law to the contrary, if Scott O'Brien
32 was married on the date of his injury then, upon his death, if he is still married to the spouse he
33 was married to on the date of injury then, should his spouse to whom he was married on the date

34 of injury survive him, the retirement board of the city of Boston shall pay to the spouse an
35 annuity in the amount of 75 per cent of the amount of the pension which otherwise would have
36 been payable to Scott O'Brien until the spouse's death The pension benefits provided for in this
37 section and section 1 shall be subject to section 103 of chapter 32 of the General Laws.

38 SECTION 5. In the event that both Scott O'Brien and his spouse to whom he was
39 married on the date of injury die before their children reach the age of eighteen the payments that
40 would otherwise have been made to his spouse shall be payable, per stirpes, to each surviving
41 children under the age of 18; provided, however, that payments shall continue for the benefit of a
42 surviving child 18 years or older who, on or before the date of death of Scott O'Brien or his
43 spouse to whom he was married on the date of injury, whichever is later, had been medically
44 determined to be permanently physically or mentally incapacitated from earning or for the
45 benefit of a child under the age of 22 who is enrolled as a full-time student as determined by the
46 criteria of the educational institution.

47 SECTION 6. The payments provided for in this act shall only be made when Scott
48 O'Brien has been re-examined by a medical panel, pursuant to section 6 of chapter 32 of the
49 General Laws, in which a majority of the physicians have re-certified to the Boston Retirement
50 Board that the member is mentally or physically incapacitated from further duty and that such
51 incapacity is likely to be permanent, and that the disability is such as might be the natural and
52 proximate result of the accident or hazard undergone on account of which retirement is claimed

53 SECTION 7. This act shall take effect as of 01/31/2022.