SENATE . . . . . No. 2783

The Commonwealth of Massachusetts

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

SENATE, March 24, 2022.

The committee on Public Service, to whom was referred the petitions (accompanied by bill, Senate, No. 1791) of John C. Velis, Joanne M. Comerford, Susannah M. Whipps, Sal N. DiDomenico and other members of the General Court for legislation to provide a retirement enhancement opportunity for certain members of the Massachusetts Teachers Retirement System; and (accompanied by bill, House, No. 2620) of Carol A. Doherty and others for legislation to establish a retirement enhancement opportunity for certain members of the Massachusetts Teachers Retirement System, report the accompanying bill (Senate, No. 2783).

For the committee,
Michael D. Brady

FILED ON: 3/11/2022

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An Act to provide a retirement enhancement opportunity for certain members of the Massachusetts Teachers Retirement System.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide certain members of the Massachusetts Teacher Retirement System with an optional retirement program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. Notwithstanding the provisions of chapter 32 of the General Laws or any other general or special law to the contrary, any city, town, regional school committee, independent or vocational technical school, county agricultural school or educational collaborative which accepts the provisions of this act in the manner hereinafter provided shall, in cooperation with and upon the prescribed notification to the teacher's retirement system established under the provisions of section 20 of chapter 32 of the General Laws, establish and implement a retirement enhancement opportunity program for members of the teachers' retirement system; provided, that in order to be deemed eligible for any of the benefit options under such program, a member shall: (i) be employed by a city, town, regional school committee, independent or vocational technical school, county agricultural school or educational

collaborative which has accepted the provisions of this act in a timely manner as specified in this act; (ii) be eligible to receive a superannuation retirement allowance in accordance with the provisions of subdivisions (1) or (4) of section five or subdivision (1) of section ten of said chapter 32 upon the effective retirement date specified in their written application to the teachers' retirement board; (iii) be an active member of the teachers' retirement system; (iv) have filed a written application, on a form approved by the teacher’s retirement system, during the application period specified in this act; and (v) irrevocably agree to a payment schedule for the purchase of service credit and age credit provided through this act. For the purposes of this act, words shall have the same meanings as in chapter 32 of the General Laws, unless otherwise expressly provided or unless the context clearly requires otherwise.

SECTION 2. This act shall be accepted only in the following manner: in a city, by vote of the school committee and the city council, with the approval of the mayor or city manager; in a town, by vote of the school committee, the select board, and the town meeting; in a regional school district or for an independent vocational school, by vote of the regional school committee; for a county agricultural school, with the approval of the county advisory board or other county legislative body and of the county commissioners or other county executive authority, but in Barnstable, Nantucket and Suffolk counties, by the county commissioners only; for an educational collaborative, by vote of its board of directors, with the approval of the city councils and town meetings in all member municipalities. Any fiscal oversight board or fiscal control board established by a special act, which consists of at least the secretary of administration and finance or his designee and the commissioner of revenue or his designee, must also approve a municipality's acceptance. The retirement enhancement opportunity program authorized by this act may be offered to teachers by any accepting city, town, regional school committee,

independent or vocational technical school, county agricultural school or educational collaborative in 2022. In order to offer the retirement enhancement opportunity program in 2022, any such city, town, regional school committee, independent or vocational technical school, county agricultural school or educational collaborative must accept this act on or after April 1, 2022. The application period in 2022 for retirement under this program shall commence seven days after acceptance of this act and end on July 31, 2022. Teachers retiring pursuant to this program in 2022 shall be retired for superannuation between June 30, 2022 and August 31, 2022. Provided that the application period for the eligible employee classified by the Centers for Disease Control and Prevention as being at increased risk for getting severely ill from COVID-19, shall begin seven days after any such city, town, regional school committee, independent or vocational technical school, county agricultural school or educational collaborative has accepted this act and end on July 31, 2022. Said teachers classified by the Centers for Disease Control and Prevention as being at increased risk for getting severely ill from COVID-19, retiring pursuant to this program shall be retired for superannuation by August 31, 2022. In the event there is a dispute concerning an employee’s status with respect to the Centers for Disease Control and Prevention increased risk categories, such dispute shall be resolved by decision of a regional medical panel, as provided by subsection (3) of section 6 of chapter 32. The decision of the regional medical panel shall be final. Provided that an employee who submits an application to the teachers' retirement board on or after January 1, 2021 but prior to the effective date of this act and has met the eligibility qualifications established in parts (i), (ii) and (iii) of section 1 of this act at the time of their application shall be eligible to purchase service credit and age credit as provided under this act.

SECTION 3. An employer that accepts the provisions of this act is required to fill any vacancies created by exercise of rights under this act on or before the start of the subsequent school year. In order to ensure that all positions vacated by the retirement of employees exercising rights under this act are filled prior to the beginning of the following school year, at the time this act is accepted, the employer shall vote to adopt a plan to fill all vacancies created as a result of employees exercising rights under this act; provided, that an employer may avoid this requirement by demonstrating that said vacancy is the result of declining enrollment and it will have no negative impact on class size or educational programs offered and shall be subject to collective bargaining with the relevant employee organization pursuant to chapter 150E; provided further, that the employer's vote to accept the provisions of this act shall incorporate the annual education aid provided pursuant to chapter 70 to said city, town, county or district; provided further, that such liability deducted shall be appropriated to the commonwealth's pension liability fund; and provided further, that ancillary costs attributable to any employee who retires under the retirement enhancement opportunity program established by this act, limited to the payment of accrued vacation, unused sick leave or any other severance payment, shall be the financial obligation of such city, town, county or district recognition responsibility for the mandated employer contribution as described in section 5.

SECTION 4. Notwithstanding any provisions of said chapter 32 to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by a city, town, regional school committee, independent or vocational technical school, county agricultural school or educational collaborative which accepts the provisions of this act and who has paid the full amount of regular deductions on the total amount of regular compensation as determined under paragraph (a) of subdivision (2) of section 5 of said chapter 32 or subsection

(4)(i) of section 5 of chapter 32, shall be based on the average annual rate of regular compensation as determined under said paragraph (a) and shall be computed according to the table contained in said paragraph (a), or as prescribed under subsection (4)(i) of chapter 5 of chapter 32, based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased by up to five years of age, provided that the purchase of age shall comply with the maximum employee annual plan contribution allowed under IRC Section 415,or by up to five years of creditable service or by a combination. An employee who retires and receives an additional benefit in accordance with the provisions of this act shall be deemed to be retired for superannuation under the provision of said chapter 32 and shall be subject to any and all provisions of said chapter 32.

The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section 5 of said chapter 32, of any employee who retires and receives an additional benefit under the retirement enhancement opportunity program in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last three years of creditable service preceding retirement, whichever is greater; provided, that the total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section 5 of said chapter 32, of any employee who became a member on or after April 2, 2012, who retires and receives an additional benefit under the retirement enhancement opportunity program in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of five

consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last five years of creditable service preceding retirement, whichever is greater.

SECTION 5. The commissioner of the public employee retirement administration shall conduct a valuation analysis of the costs attributable to the provisions of this act, which shall be used to determine the cost for eligible employees to purchase service credit and age credit provided under this act; provided, that the commissioner shall ensure that any additional payments are in compliance with the appropriate provisions of the Internal Revenue Code. The commissioner shall file a report in writing of his findings within thirty days of the passage of this act; provided, that said report shall be filed with the joint committee on public service and the house and senate committees on ways and means, and the teachers' retirement board within thirty days of the passage of this act. Eligibility to retire under the retirement enhancement opportunity program established by this act shall be contingent upon the payment of the employee's portion of cost, as determined by the commissioner of the public employee retirement administrator's analysis, in 1 lump sum or in installments upon such terms as the teachers 'retirement board may provide, of the total cost and the actuarial liabilities attributable to the additional benefits payable in accordance with the provisions of this act.

The teachers retirement board shall prepare a funding schedule for each applicable city, town, county or district which shall reflect the payment of twenty percent of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement enhancement opportunity program in accordance with the provisions of this section which shall be used to offset the employee's cost of purchasing age with any residual payments being used to

offset the employee’s cost to purchase service; provided, however, that said schedules shall be designed to reduce the applicable city, town, county or district and the commonwealth's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and thirty; provided, however, that in preparing such schedules, the board shall consider the analysis of the commissioner of public employee retirement administration filed in accordance with the provisions of this section; provided, further, that said board shall triennially update such schedules until said June thirtieth, two thousand and thirty. Said board shall file such funding schedules with the joint committee on public service and the house and senate committees on ways and means on or before March first, two thousand and twenty-three, and shall file updates thereto triennially on or before March first of each year. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be deemed an obligation of the applicable city, town, county or district which has accepted the provisions of this act to appropriate annually an amount sufficient to meet twenty percent of the additional costs and liabilities attributable to the additional benefits payable under the retirement enhancement opportunity program and said applicable city, town, county or district shall pay the same to the commonwealth's pension liability fund annually; provided further that nothing in this act shall prohibit the employer from making additional payments beyond those required in this section or the commonwealth from paying, in whole or in part, the employees ’required payment, subject to any and all obligations to collectively bargain with a relevant employee organization pursuant to chapter 150E.

The department of elementary and secondary education shall list each position made vacant by the retirement of an employee who retires with an enhanced benefit in accordance with the provisions of this act and shall file such list with the joint committee on public service and

the house and senate ways and means committees on or before September 1, 2022; provided, that for each position the list includes: (1) the classification title of such position; (2) the salary range for such title; and (3) the salary payable to the person who so retired from such position; provided, however, that any such city, town, county or district that fails to fill a vacancy pursuant to section 3 of this act, shall be responsible for paying the total cost attributable to the additional benefits payable in accordance with the section 5 of this act. To make said payment, the commissioner of the department of revenue shall deduct such liability from the annual education aid provided pursuant to chapter 70 to said city, town, county or district; provided further, that such liability deducted shall be appropriated to the commonwealth's pension liability fund: and provided further, that ancillary costs attributable to any employee who retires under the retirement enhancement opportunity program established by this act, limited to the payment of accrued vacation, unused sick leave and any other severance payment, shall be the financial obligation of such city, town county or district.