

Wednesday, November, 2, 2011.

Met at seven minutes after one o'clock P.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Guests of the House.

William R. Caddy Detachment #124 Officers.

During the session, Mr. Ayers of Quincy took the Chair and introduced officers of the William R. Caddy Detachment #124 on the occasion of the sixty-fifth anniversary of the detachment. Present in the House Chamber were Commandant Donald W. Sharp, Sr., Vice John "Butch" Mahoney, Jr., Vice Bob Godfrey, Paymaster Thomas Lynch, Jr., Judge Advocate Larry Cunningham, Adjutant Marc Connolly, Chaplain Wayne Scott, Sgt-At-Arms Brian Wheaton and Past National Commandant James "Jim" Laskey, Sr. Private First Class William Robert Caddy, for whom the Detachment is named, was a 19 year old United States Marine from Quincy who sacrificed his life to save the lives of his platoon leader and platoon sergeant during the battle of Iwo Jima. For his bravery he received the Medal of Honor. Mr. Ayers then presented to Commandant Sharp Citations of the House in recognition of the auspicious occasion. The Detachment members were the guests of Representatives Ayers, Mariano of Quincy and Chan of Quincy.

Statement Concerning Representative Gobi of Spencer.

A statement of Mrs. Haddad of Somerset concerning Ms. Gobi of Spencer was spread upon the records of the House, as follows:

Statement concerning Ms. Gobi of Spencer.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Gobi of Spencer, is unable to be present in the House Chamber for today's sitting due to a family emergency. Her missing of roll calls today is due entirely to the reason stated.

Paper from the Senate.

Elaine Strout-Clements,—sick leave bank.

The House Bill establishing a sick leave bank for Elaine Strout-Clement, an employee of the Trial Court (House, No. 3704), came from the Senate passed to be engrossed, in concurrence, with amendments in lines 2, 4 and 5, striking out the name "Strout-Clement" and inserting in place thereof, in each instance, the following name "Strout-Clements"; and striking out the title and inserting in place the following title: "An Act establishing a sick leave bank for Elaine Strout-Clements, an employee of the Trial Court."

Under suspension of Rule 35, on motion of Mrs. Harrington of Gorton, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

A petition (accompanied by bill, Senate, No. 2052) of Brian A. Joyce and Linda Dorcena Forry (by vote of the town) for legislation to authorize the town of Milton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premise of a certain restaurant, was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

Milton,—Liquor license.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Martin J. Walsh relative to community corrections. Under suspension of the rules, on motion of Ms. Atkins of Concord, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Community corrections.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Angelo J. Puppolo, Jr., that the State Retirement Board be directed to grant creditable service to Francis C. Torcia; and

Francis C. Torcia.

Petition (accompanied by bill) of Alice Hanlon Peisch for legislation to establish a sick leave bank for Thomas Riffin, an employee of the Department of Mental Health;

Thomas Riffin,—sick leave bank.

Severally to the committee on Public Service. Under suspension of the rule, in each instance, on motion of rules, on motion of Mrs. Haddad of Somerset, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill authorizing the board of commissioners of the Franklin County Regional Housing and Redevelopment Authority to offer a limited early retirement incentive (House, No. 3748). Read; and referred, under Rule 33, to the committee on Ways and Means.

Franklin County,—early retirement.

Orders of the Day.

The Senate Bill relating to the improvement of Route 2, Crosby's Corner Interchanged, in the towns of Lincoln and Concord (Senate, No. 2022, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

Third reading bill.

The Senate Bill authorizing the city of Taunton to lease a certain parcel of land (Senate, No. 1050, amended) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Id.

Third reading bills.

House bills
 Relative to a Cable PEG Access Enterprise Fund (House, No. 1451) (its title having been changed by the committee on Bills in the Third Reading);
 Authorizing the city of Quincy to abate certain fiscal year 2010 real property taxes (House, No. 3447);
 Relative to the term of office of the City Clerk of the city of Revere (House, No. 3656) (its title having been changed by the committee on Bills in the Third Reading); and
 Authorizing the town of Hull to extend the lease of a certain building in the town (House, No. 3650);
 Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Second reading bills.

Senate bills
 Designating a certain bridge in the city of Leominster as the Jonathan Roberge Memorial Bridge (Senate, No. 1741); and
 Authorizing the town of Newbury to use certain fund balances for capital expenditures (Senate, No. 1934); and
 House bills
 Regarding the duration of contract with the chief of police in the town of Natick (House, No. 3333);
 Relative to the regulation of salaries of employees of the town of Weston serving in the armed forces of the United States (House, No. 3463); and
 Updating certain banking laws (House, No. 3775);
 Severally they were read a second time; and they were ordered to a third reading.

Monroe State Forest.

The Senate Bill relative to an exclusive and perpetual easement within Monroe State Forest (Senate, No. 1988, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.
 Pending the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Pedone of Worcester moved to amend it in section 1, in line 15, by striking out the following: "VE-106-108" and inserting in place thereof the following: "VE-103-108".
 The amendment was adopted; and the bill, as amended, was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments adopted by the House.

Uniform Trust Code.

The House Bill establishing the Massachusetts Uniform Trust Code (House, No. 3780) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.
 Pending the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Pedone of Worcester moved to amend it by inserting before the enacting clause the following emergency preamble:
 "Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith the Massachusetts Uniform Trust Code, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted; and the bill (House, No. 3780, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.
 Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance.
[See Ye and Nay No. 136 in Supplement.]
 Therefore a quorum was present.

Quorum.

Quorum,—yea and nay No. 136.

Reports of Committees.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill to clarify terms of collective bargaining agreements (House, No. 3786), ought to pass with an amendment substituting therefore a Bill relative to the terms of collective bargaining agreements (House, No. 3789). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.
 Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.
 Under suspension of Rule 7A, on motion of the same member, the bill was read a second time forthwith.

"Evergreen" collective bargaining.

Pending the question on adoption of the amendment recommended by the committee on Ways and Means, Mr. Winslow of Norfolk moved to amend the proposed substitute bill in section 1, in line 5, by inserting after the word "effect" the following: "for a maximum of 1 year", and in lines 5 and 6, by striking out the words "until a successor agreement is voluntarily negotiated by the parties". The further amendments were rejected.
 Mr. Levy of Marlborough then moved to amend the proposed substitute bill by striking out sections 2 and 3 and inserting in place the following section:
 "SECTION 2. This act shall take effect upon passage."
 The further amendment was rejected.
 The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 3789) was ordered to a third reading.
 Subsequently under suspension of the rules, on motion of Mr. Walsh of Boston, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 3789) then was sent to the Senate for concurrence.

Orders of the Day.

The Senate Bill providing for additional pension reform and benefits modernization (Senate, No. 2018, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pension reform.

Pension
reform.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Brownsberger of Belmont moved to amend it by adding the following section:

“SECTION 58. Section 1 of Chapter 32 is amended in the definition of ‘regular compensation’ by inserting before the last paragraph, the following new paragraph:—

Notwithstanding any provision of this chapter to the contrary, regular compensation for any person who becomes a member after January 1, 2011, shall not include salary, wages or other compensation in whatever form in any calendar year in excess of 35 per cent of the annual limitation that may be imposed under federal law on the amount of compensation that may be taken into account when calculating benefits under plans described in 26 U.S.C. 401(a) including, but not limited to, the applicable limits for any calendar year under 26 U.S.C. 401(a)(17). Faculty, librarians and administrators in public higher education, as well as any physicians employed by the commonwealth who are eligible for the state retirement system, shall not be prohibited from participating in the college retirement equities fund or the optional retirement program by the Teachers Insurance and Annuity Association.; and said definition is further amended by striking in the last paragraph the phrase ‘the limitations of the preceding paragraph’ and replacing it with the phrase:— the limitations of either of the preceding two paragraphs.”.

The amendment was rejected.

Mr. Kaufman of Lexington then moved to amend the bill by adding the following two sections:

“SECTION 58. Subsection (1), sub-paragraph (p) of section 4 of chapter 32 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 267 and 268, the words ‘teaching pupils in any non-public school in the commonwealth,’ and inserting in its place the following words: ‘a special education program in a non-public school in the commonwealth in a position that, had it been in a public school, would have been considered a teacher, and’.

SECTION 59. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘Membership Service’, in lines 332 to 335 inclusive, the following definition:—

‘Nonpublic school’, an institution, not operated by the federal, state or local governments or agencies thereof, the primary function of which is (a) to educate children under the age of 18 in a course of study designed to lead to the award of a high school diploma or its equivalent, or in a special education program; or (b) to provide a college-level course of study designed to lead to the award of a college or university degree.”.

The amendment was rejected.

Mr. Fattman of Sutton and other members of the House then moved to amend the bill by inserting after Section 54 (as published) the following section:

“SECTION 53A. The Treasurer is hereby authorized and directed to commission a comprehensive, independent analysis of the costs and benefits of potential structural reforms to the current pension system

that will provide a public benefit. For the purposes of this analysis, ‘public benefit’ shall include but not be limited to the following principles: the long-term sustainability of the pension system; the equitable distribution of benefits to members of the system; and, a reduction in the cost to the taxpayers.

The analysis shall include a review of the following structural reforms: (1) a redesign of the current defined benefit plan, including but not limited to potential administrative, benefit, or contribution changes; (2) the creation of a mandatory or optional defined contribution plan; and (3) the creation of a mandatory or optional hybrid plan, consisting of defined benefit and defined contribution components. Said analysis shall describe the costs and benefits to the Commonwealth as a whole, to the 105 contributory retirement systems in the Commonwealth, and to current and future members of the retirement system. The analysis shall also compare the pension systems of both public and private organizations of similar size.

The organization commissioned by the Treasurer to conduct the analysis shall be drawn from a list of qualified research organizations which are: (a) competitively bid through a process established by the Treasurer; (b) acceptable to the Public Employee Retirement Administration Commission; and (c) approved by the majority vote of the co-chairs and ranking minority members of the Committee on Public Service. The cost associated with commissioning an independent organization to provide the analysis shall be certified by the Secretary of the Executive Office of Administration and Finance and submitted to the legislature for appropriation.

The organization shall provide a preliminary report to the public employee retirement administration commission no later than 60 days prior to the legislative filing deadline. The public employee retirement administration commission may conduct an additional actuarial analysis to determine the costs of any recommendations made by the organization, which shall be included in the report prepared by the organization.

The organization shall file a report of its findings, together with the actuarial analysis provided by the public employee retirement administration commission, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than October 15, 2012.”.

After remarks on the question on adoption of the amendment (the Speaker being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Fattman; and on the roll call (Mr. Donato of Medford being in the Chair) 121 members voted in the affirmative and 33 in the negative.

[See Ye and Nay No. 137 in Supplement.]

Therefore the amendment was adopted.

Ms. Coakley-Rivera of Springfield then moved to amend the bill by adding the following two sections:

“SECTION 58. Section 1 of chapter 32 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after the definition of ‘Membership service,’ the following definition:—

‘Nonpublic school’, an institution, not operated by the federal, state or local governments or agencies thereof, the primary function of which

Amendment
adopted.—
yea and nay
No. 137.

Pension
reform.

is (a) to educate students in a course of study designed to lead to the award of a diploma or its equivalent; or (b) to provide a college-level course of study designed to lead to the award of a college or university degree.

SECTION 59. Section 3 of said chapter 32, as so appearing, is hereby amended by inserting after subdivision (4A) the following subdivision:—

(4B) Credit for Teachers for Nonpublic School Service after January 1, 1973. Any member in service, or any member inactive on authorized leave of absence of the teachers' retirement system, the state retirement system or as a teacher in the State-Boston retirement system, who holds a certificate issued by the department of education or is exempted from the requirement of certification, or any member who is employed in a public institution of higher education as a faculty member or professional employee not under the jurisdiction of the human resources division within the executive office for administration and finance classification system, and who was previously employed as a teacher in a nonpublic school may receive creditable service as if that service had been rendered in a public school of the commonwealth or public institution of higher education and the member had been a member of the teachers' retirement system, the state retirement system, or the State-Boston retirement system during the period in which the service was rendered. No credit shall be allowed until the member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for the member, in 1 sum, or in installments, upon the terms and conditions that the board prescribes, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member as of the member's most recent date of entry into membership in the teachers' retirement system, the state retirement system, or as a teacher in the State-Boston retirement system, for each year of service purchased plus buyback interest on that amount. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service, and no credit shall be allowed and no payment shall be accepted for any service on account of which the member shall be entitled to receive a retirement allowance or other similar payment from any other nonpublic school system. No credit shall be allowed if the member has received credit for 3 or more years of nonpublic school service under subdivision (4A) of this section or paragraph (p) of subdivision (1) of section 4. The creditable service allowable under this subdivision for any member shall not exceed 4 years. Members in service of a retirement system who make application for this creditable service shall be notified by the retirement board of their eligibility for this creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days after the notice, or (2) to enter into an installment agreement within 180 days after the notice to pay for the creditable service."

The amendment was rejected.

Messrs. Torrisi of North Andover and Scibak of South Hadley then moved to amend the bill by adding the following section:

"SECTION 57. Section 1 of chapter 32 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word 'date', in line 392, the following words:— ; provided, however, that if the employee receives compensation for wages in whatever form from the federal government and such wages were not reported to any employing authority, such wages shall not be counted as regular compensation for the purposes of the benefits provided in this chapter."

The amendment was adopted.

Mr. Scibak of South Hadley then moved to amend the bill in section 47, in line 850, by inserting after the figures "\$13,000" the following: "or such maximum base amount as determined by the general court in accordance with paragraph (h) of this section"; and by inserting after section 47 the following section:

"SECTION 47A. Section 102 of Chapter 32 of the General Laws is amended by inserting at the end thereof the following paragraph:—

(h) In March of each year, commencing in March two thousand and thirteen, the actuary in the commission shall annually file with the clerk of the house of representatives a report on the average rate of return of the PRIT Fund during the three previous calendar years. If the average rate of return of the PRIT Fund during the three previous calendar years exceeds the assumed rate of return of the PRIT Fund during such years, the maximum base amount, on which the cost-of-living adjustment is calculated in accordance with paragraph (c) of this section, may be increased to a sum, as determined and established by the general court, that shall become the maximum base amount on July 1 of that year and future years."

The amendments were adopted.

Mr. Scibak of South Hadley and other members of the House then moved to amend the bill by striking out section 53 (as published) and inserting in place the following section:

"SECTION 52. Upon appropriation of sufficient funds to engage professional advisors, the board of trustees of the Health Care Security Trust shall investigate and conduct an actuarial study of retiree health care and other non-pension benefits for state employees. The board shall consider the range of benefits that are or should be provided as well as the current and anticipated future cost of providing them. The board may make recommendations on how best to divide the costs between the commonwealth and its employees. The board shall file a report of any recommendations with the clerks of the house and senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on public service and the secretary of administration and finance."

The amendment was adopted.

Mrs. Canavan of Brockton then moved to amend the bill by adding the following section:

"SECTION 58. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after paragraph (h½) the following paragraph:—

(h¾) Any school nurse who is a member in service of the teachers' retirement system or a municipal or city of Boston or state retirement

Pension
reform.

system who is employed in a school approved by the department of education may receive creditable service for any period or periods of work experience in the nursing field. No credit shall be allowed until such member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for such member, in one sum, or in installments, upon such terms and conditions as the board may prescribe, makeup payments of an amount equal to 10 percent of the regular annual compensation of the member when said member entered the retirement system for each year of service so purchased, plus buy back interest. No credit shall be allowed and no payment shall be accepted under this paragraph until the member shall have completed ten or more years of membership service. The maximum creditable service allowable under this paragraph for any member shall not exceed three years. Members in service of a retirement system eligible for said creditable service under this act shall make application for said creditable service within ninety days of being notified by the retirement board of their eligibility after becoming vested in the retirement system or for currently eligible members, within ninety days of the effective date of this act.”

The amendment was rejected.

The same member then moved to amend the bill by striking out sections 1, 2 and 3 and inserting in place thereof the following three sections:

“SECTION 1. Paragraph (i) of subdivision (4) of section 5 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the sixth sentence and inserting the following sentence: A member of a contributory retirement system other than the teachers’ retirement system or a teacher in the State-Boston retirement system, who transfers into the teachers’ retirement system or transfers into the State-Boston retirement system as a teacher may elect to participate in the alternative superannuation retirement benefit program but that election shall occur within 180 days after establishing membership in the teachers’ retirement system or the State-Boston retirement system.

SECTION 2. Paragraph (ii) of said subdivision (4) of said section 5 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Such member shall have served for not less than 20 years as a teacher in order to be eligible to receive the benefit provided under this subdivision but years of membership service in a contributory retirement system while employed in a public day school in the commonwealth or an education collaborative under section 4E of chapter 40, as a school nurse, school social worker, early childhood teacher, speech, occupational or physical therapist or school business administrator shall be considered years as a teacher for the purposes of this section.

SECTION 3. A school nurse, school social worker, early childhood, speech, occupational or physical therapist, or school business administrator, who on or before July 1, 2001 was eligible to elect to participate in the alternative superannuation retirement benefit program or who transferred from a contributory retirement system to the teachers’ retirement system or the State-Boston retirement system as a teacher under paragraph (i) of subdivision (4) of section 5 of chapter 32 of the

General Laws, may elect to do so within 180 days of the effective date of this act on such form as the state teachers’ retirement board or the State-Boston retirement board shall prescribe; provided that said member shall make retirement contributions to the system, prior to retirement, as if said member had elected into said program on or before July 1, 2001, plus interest. The interest shall be calculated by using one half of the actuarially assumed investment rate of return of the teachers’ retirement system or the State-Boston retirement system. The election to participate in the alternative superannuation retirement benefit program shall be irrevocable and shall be subject to said subdivision (4) of section 5 of said chapter 32. The election provided in this section shall also apply to any retired or other inactive member of the teachers’ retirement system or of the State-Boston retirement system who (a) was a member in service on or before July 1, 2001 or transferred from a contributory retirement system to the teachers’ retirement system or the State-Boston retirement system after that date, (b) was eligible to elect to participate in the alternative superannuation retirement benefit program, and (c) notified, in writing, the school district payroll, business, or other administrative officer of an intention to elect to participate in the alternative superannuation retirement benefit program established pursuant to paragraph (i) of subdivision (4) of section 5 of chapter 32. The new benefit provided through such election shall be actuarially reduced, if necessary, to meet the plan qualification requirements of the Internal Revenue Code (IRC), as provided in paragraph (i) of subdivision (4) of section 5 of Chapter 32.”

The amendment was rejected.

Mr. Fattman of Sutton and other members of the House then moved to amend the bill in section 12, in lines 66 to 69, inclusive, by striking out following: “Any active member as of July 1, 2012, who has served in more than 1 group may elect to receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that the member rendered in each group; further, the” and inserting in place thereof the word “The”; and the amendment was rejected.

Ms. Campbell of Methuen then moved to amend the bill by adding the following section:

“SECTION 58. Section 1 of Chapter 32 of the General Laws is amended in the definition of ‘regular compensation’ by inserting before the paragraph beginning ‘If as a result of a mistake’, the following new paragraph:—

Notwithstanding any provision of this chapter to the contrary, for members of the state employees’ retirement system, the teachers’ retirement system including all post secondary education retirement systems throughout the Commonwealth and all county, city and town contributory retirement systems including those who entered the service of the Commonwealth or a political subdivision thereof on or after July 1, 2012 regular pension compensation shall not include salary, wages or other compensation in whatever form in any calendar year in excess of sixty five percent of the salary of the sitting Governor of the Commonwealth of Massachusetts. The Governor’s salary shall be defined as salary and shall not include any additional benefits or

Pension
reform.

contributory compensation available to the office such as health care or additional contributory retirement options offered by the Commonwealth.”.

The amendment was rejected.

Mr. DiNatale of Fitchburg then moved to amend by the bill by adding the following two sections:

“SECTION 58. Section 1 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting, after the definition of ‘Membership service,’ the following definition:—

“Nonpublic school’, an institution, not operated by the federal, state or local governments or agencies thereof, the primary function of which is (a) to educate students in a course of study designed to lead to the award of a diploma or its equivalent; or (b) to provide a college-level course of study designed to lead to the award of a college or university degree.

SECTION 59. Section 3 of said chapter 32, as so appearing is hereby amended by inserting after subdivision (4A) the following subdivision:—

(4B) Credit for Teachers for Nonpublic School Service after January 1, 1973. Any member in service, or any member inactive on authorized leave of absence of the teachers’ retirement system, the state retirement system or as a teacher in the State–Boston retirement system, who holds a certificate issued by the department of education or is exempted from the requirement of certification, or any member who is employed in a public institution of higher education as a faculty member or professional employee not under the jurisdiction of the human resources division within the executive office for administration and finance classification system, and who was previously employed as a teacher in a nonpublic school may receive creditable service as if that service had been rendered in a public school of the commonwealth or public institution of higher education and the member had been a member of the teachers’ retirement system, the state retirement system, or the State-Boston retirement system during the period in which the service was rendered. No credit shall be allowed until the member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for the member, in 1 sum, or in installments, upon the terms and conditions that the board prescribes, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member as of the member’s most recent date of entry into membership in the teachers’ retirement system, the state retirement system, or as a teacher in the State-Boston retirement system, for each year of service purchased plus buyback interest on that amount. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service, and no credit shall be allowed and no payment shall be accepted for any service on account of which the member shall be entitled to receive a retirement allowance or other similar payment from any other nonpublic school system. No credit shall be allowed if the member has received credit for 3 or more years of nonpublic school service under subdivision (4A) of this section or paragraph (p) of subdivision (1) of section 4. The creditable service allowable under this subdivision for any member shall not exceed 4 years. Members in service of a retirement system who make applica-

tion for this creditable service shall be notified by the retirement board of their eligibility for this creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days after the notice, or (2) to enter into an installment agreement within 180 days after the notice to pay for the creditable service.”.

The amendment was rejected.

Mr. Kocot of Northampton then moved to amend the bill by adding the following five sections:

“SECTION 58. Section 3(2) (d) of Chapter 32, is hereby amended at the end thereof by inserting the following:—

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

SECTION 59. Section 4(2) (b) of Chapter 32, as so appearing, is amended by inserting the following in line 447 after the word ‘membership’:— provided, that in the case of any faculty employed at one or more state higher education institution, the Board shall credit as at least one-half year of service, actual service teaching the equivalent of at least four three-credit courses per calendar year.

SECTION 60. Section 4(2) (c) of Chapter 32, is hereby amended at the end thereof by adding the following:—

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

SECTION 61. Section 1 of Chapter 32, is hereby amended by inserting in line 428 after the word ‘fund’, the following:—

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

SECTION 62. Section 5(1) (m) of Chapter 32, is hereby amended at the end thereof by inserting the following:—

Notwithstanding any provision of this chapter to the contrary, any part-time faculty employed at one or more state higher education institution, whose employment first commenced on or after January first, nineteen hundred and seventy-eight, and who has not completed five or more years of creditable service before the termination of his employment, shall on the termination of his employment be entitled to a return

Pension
reform.

of his accumulated deductions. Such return of said accumulated deductions shall be in lieu of any superannuation retirement allowance provided under this chapter.”.

The amendment was rejected.

Mr. Scibak of South Hadley then moved to amend the bill by striking out section 5A (as published) and inserting the following section:

“SECTION 6. Paragraph (g) of subdivision (2) of section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word ‘groups’ in line 229, the following: — ; provided that a member entering service prior to July 1, 2012 must be actively employed in a Group 2 or Group 4 position by a governmental unit which is subject to a retirement system under Chapter 32, and must be actively performing the duties of said position for which he/she seeks classification for not less than twelve consecutive months immediately preceding termination or retirement in order to qualify for the retirement allowance calculation of said group contained in subdivision 2 of section 5 of this chapter.

A member who seeks Group 2 or Group 4 classification and is no longer employed by a public entity at the time of his/her retirement will be classified pursuant to the provisions herein based on the position from which he /she was last employed.”.

The amendment was adopted.

Mr. DiNatale of Fitchburg then moved to amend the bill by inserting after section 36 the following section:

“SECTION 36A. Section 28K of said chapter 32, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Any employee of the commonwealth or its political subdivisions who is a representative of an employee organization, which has included in its membership employees of the commonwealth or its political subdivisions shall, while on a full-time or part-time leave of absence for the purpose of acting as a representative of said employee organization, be considered on leave of absence, without pay, for the period of the employee’s assignment as a representative of such employee organization. Such employee shall, however, be credited with the creditable service the employee would have received had the employee been in active service for the full or part-time leave and shall contribute each month to the retirement fund in an amount which the employee would have contributed had the employee remained in the service of the commonwealth or its political subdivisions. Such employee of the commonwealth or its political subdivisions shall be entitled to all benefits and privileges, except the payment of salary as provided under this chapter and chapters 30, 31, and 32 during the leave of absence.”.

The amendment was rejected.

Mr. Webster of Pembroke and other members of the House then moved to amend the bill by adding the following three sections:

“SECTION 58. Section 10 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out in line 4 the words ‘or fails of nomination or re-election’.

SECTION 59. Said chapter 32 is hereby further amended by inserting after section 22 the following section:—

Section 23. The provisions of this chapter relating to defined benefit plans shall not apply to any employee hired after July 1, 2012. They shall be covered by 401 (K) coverage with the state, county, city or town providing a 7 per cent match. Any employee not vested as of July 2, 2012 may elect to participate in 401 (K) coverage and associated accrued defined benefits may be transferred to 401 (K) coverage with state, county, city, or municipal 7 per cent match. Disability pensions shall continue for such employees who sustain job related injuries that prohibit them from performing work in any gainful capacity. Disability pensions shall be based on the regular salary of the employee and not that of any employee he is filling in for. All pension funds shall be managed by the PRIM board.

SECTION 60. Said chapter 32 is hereby further amended by adding the following 2 sections:—

Section 106. Any person who knowingly provides false information to obtain pension benefits or accepts unearned benefits shall be punished by imprisonment in a prison for not more than 5 years.

Section 107. Employees shall not automatically be allowed to inflate their pensions with raises and additional compensation during their final year of service.”.

The amendment was rejected.

Mr. Chan of Quincy then moved to amend the bill by adding the following section:

“SECTION 58. Section 28K of said chapter 32, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Any employee of the commonwealth or its political subdivisions who is a representative of an employee organization, which has included in its membership employees of the commonwealth or its political subdivisions shall, while on a full-time or part-time leave of absence for the purpose of acting as a representative of said employee organization, be considered on leave of absence, without pay, for the period of the employee’s assignment as a representative of such employee organization. Such employee shall, however, be credited with the creditable service the employee would have received had the employee been in active service for the full or part-time leave and shall contribute each month to the retirement fund in an amount which the employee would have contributed had the employee remained in the service of the commonwealth or its political subdivisions. Such employee of the commonwealth or its political subdivisions shall be entitled to all benefits and privileges, except the payment of salary as provided under this chapter and chapters 30, 31, and 32 during the leave of absence.”.

The amendment was rejected.

Mr. DiNatale of Fitchburg then moved to amend the bill by striking out section 39; and the amendment was rejected.

Mr. Scibak of South Hadley then moved to amend the bill by striking out section 14 and inserting in place the following section:

“SECTION 14. Said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by adding the following 2 tables:—

Pension reform.

Table Showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who become members on or after July 1, 2012.

Per cent.	Age Last Birthday At Date of Retirement		
	Group 1.	Group 2.	Group 4.
2.5	67 or over	62 or over	57 or over
2.35	66	61	56
2.20	65	60	55
2.05	64	59	54
1.90	63	58	53
1.75	62	57	52
1.60	61	56	51
1.45	60	55	50
1.3	59	54	49
1.15	58	53	48
1.0	57	52	47

Table Showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who become members on or after July 1, 2012 and have at least 30 years of creditable service at the time of retirement.

Per cent.	Age Last Birthday At Date of Retirement		
	Group 1.	Group 2.	Group 4.
2.5	67 or over	62 or over	57 or over
2.375	66	61	56
2.250	65	60	55
2.125	64	59	54
2.0	63	58	53
1.875	62	57	52
1.750	61	56	51
11.625	60	55	50
1.5	59	54	49
1.375	58	53	48
1.250	57	52	47."

The amendment was adopted.

Mr. Winslow of Norfolk then moved to amend the bill by inserting after Section 53A (inserted by amendment) the following section:

"SECTION 53B. The Treasurer is hereby authorized and directed to commission a comprehensive, independent analysis of the costs and benefits of consolidating each contributory retirement system in the Commonwealth into a singular system operated by the Public Employee Retirement Administration Commission. The analysis shall also study the feasibility of restructuring the current unfunded pension liability in order to avoid any liability to the General Fund.

The organization commissioned by the Treasurer to conduct the analysis shall be drawn from a list of qualified research organizations which are competitively bid through a process established by the Treasurer and approved by the majority vote of the co-chairs and ranking minority members of the Committee on Public Service. The cost associated with commissioning an independent organization to provide the analysis shall be certified by the Secretary of the Executive Office of Administration and Finance and submitted to the legislature for appropriation.

The organization shall provide a preliminary report to the Public Employee Retirement Administration Commission no later than 60 days prior to the legislative filing deadline. The Public Employee Retirement Administration Commission may conduct an additional actuarial analysis to determine the costs of any recommendations made by the organization, which shall be included in the report prepared by the organization.

The organization shall its recommendations based on its findings, together with the actuarial analysis provided by the Public Employee Retirement Administration Commission, if any, and legislation to effectuate said changes with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than October 15, 2012."

The amendment was adopted.

Mr. Rogers of Norwood and other members of the House then moved to amend the bill by adding the following section:

"SECTION 58. Notwithstanding any general or special law to the contrary, Section 4 of this bill shall not take effect until March 1, 2013 or until such time as the recommendations of the commission created herein may be adopted. There shall be a special commission to investigate and study a suitable retirement age for new hires of the uniformed members fo the Department of State Police. The commission shall consider the physical and mental skills and qualifications needed to perform the duties of a uniformed member of the Department in developing recommendations for a maximum age requirement. The commission shall consist of the chairs of the joint committee on public service, who shall chair the commission; the chairs of the joint committee on public safety; the secretary of executive office of public safety and security, or a designee, the colonel of the Department of the state Police or a designee, and a representative of the State Police Association of Massachusetts. The commission shall file a report of its recommendations, and any proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than December 31, 2012."

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 37, in lines 546 to 550, inclusive, by striking out the following: "(A) no investment of funds shall be made in stocks, securities or other obligations of a company which derives more than 15 per cent of its revenues from the sale of tobacco

Pension
reform.

products; (B) in investing funds the board shall employ an investment manager or investment managers who shall invest the funds of the system; and (C) no funds shall be invested directly in mortgages or collateral loans” and inserting in place thereof the words “the board shall employ an investment manager or investment managers who shall invest the funds of the system”. The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out section 1; and the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by inserting after section 4 the following section:

“SECTION 4A. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking, in line 465, the figure ‘64’ and inserting in place thereof the following:— 51.”

On the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Jones; and on the roll call and on the roll call 38 members voted in the affirmative and 114 in the negative.

[See Yea and Nay No. 138 in Supplement.]

Therefore the amendment was rejected.

Ms. Story of Amherst and other members of the House then moved to amend the bill by adding the following two sections:

“SECTION 59. Subdivision (1) of Section 4 of Chapter 32 of the General Laws is hereby amended by inserting at the end thereof the following new paragraph:—

(t) (1) Notwithstanding any general or special law to the contrary, any active member of the optional retirement system established pursuant to subsection (3) of section 40 of Chapter 15A of the General Laws, or inactive member of the optional retirement system who is currently an active member of the state retirement system, or optional retirement plan enrollee on an approved leave of absence, shall have one opportunity to transfer to the state employees retirement system, governed by Chapter 32 of the General Laws, with creditable service allowed for any such time they were active participants of the optional retirement program. Any such employee choosing to transfer will also be allowed creditable service for any years of participation, or portions thereof, in the state employee retirement system immediately prior to their enrollment in the optional retirement program.

(2) Eligibility for creditable service for time spent in the optional retirement program and service relinquished in the state retirement system by enrollment in the optional retirement program shall be conditioned upon the payment, in one lump sum or in installments upon such terms as the state retirement board may provide, the larger of 1) an amount equal to the contributions such employee would have otherwise paid into the state employees retirement system had they been a member, plus actuarial-assumed interest for the years spent as an actively contributing member in the optional retirement plan or 2) an amount equal to all such assets, accrued under the Massachusetts optional retirement plan to the state retirement system, providing that such assets shall be credited toward the purchase of creditable service, minus employer – funded assets. Optional retirement program participants electing to transfer to the state retirement system will, upon the

Amendment
rejected,—
yea and nay
No. 138.

transfer, forfeit all benefits, rights and privileges attributable to employer –funded assets in the optional retirement program. The optional retirement plan administrator will take immediate steps to ensure that such employer- funded assets are transmitted to the Pension Reserve Fund as assets of the state retirement system.

(3) Within one hundred twenty (120) days of the acceptance of the effective date if this act the state retirement board shall request of the Internal Revenue Service the necessary letters of determination and/or ruling on whether the provisions of this act may be implemented without impairing the compliance of either or both the optional retirement plan and the state employees’ retirement system with the Internal Revenue Code of 1986 at, including but not limited to, subsection 414(h). The state retirement system shall also request a determination and/or ruling from the Internal Revenue Service on whether the provisions of this act may be implemented, without impairing the above mentioned compliance, provided that it only applies to any employee who elected, prior to May 16, 2004, to participate in the optional retirement program because the option of marriage did not become available to that employee under the laws of the commonwealth prior to May 16, 2004. Sections 1, 2, and 4 through 7 of this act shall not take effect unless and until the Internal Revenue Service issues a favorable ruling or determination, as the case may be, which determines that the transfers described in this act will not result in non-compliance of either or both the optional retirement plan and the state employees’ retirement system with the Internal Revenue Code at, including but not limited to, subsection 414(h).

(4) Within thirty (30) days of a favorable ruling or determination from the Internal Revenue Service , the Department of Higher Education shall notify active members of the optional retirement program, and those members on an excused leave of absence of two years or less, of their eligibility for this one-time transfer opportunity to the state employee retirement system. Eligible employees who choose to transfer to the state retirement system must make application for such transfer to the state retirement board within one hundred eighty days (180) days of notification by the state of their eligibility for this transfer. Any elections under this section shall apply to current active members of the optional retirement plan and those on an approved leave of absence of two years or less on the effective date of this act, and shall be for one time. No further changes in participation, either into the state retirement plan or out of the optional retirement plan, will be permitted.

(5) Within 30 days of application for transfer to the state retirement system, such employees, subject to the rules and regulations of the state board of retirement, shall be notified by the state retirement board of their eligibility for transfer and the cost of such transfer. If eligible, such members shall have one hundred eighty (180) days from notification to make the transfers to the state employees’ retirement system, as set forth in subsection 2. Any money remaining in an optional retirement plan account following the transfer of an employee to the state retirement system and the complete payment for such transfer, as set forth above, will continue to be held on behalf of the member under

Pension reform.

the optional retirement plan and shall continue to be subject to the terms of the optional retirement plan.

(6) If an employee has a residual account remaining in the optional retirement plan pursuant to paragraph (4) above, the employee shall continue to be a member of the optional retirement plan as long as he or she has an account under such plan but will not be permitted to make further contributions and will not be eligible for any employer contributions thereunder. The Massachusetts Department of Higher Education and the State Board of Retirement shall take such actions that are required or appropriate to ensure that the optional retirement program and the state employees' retirement system, as hereby amended, continue to be tax-qualified plans in accordance with the Internal Revenue Code of 1986, as amended.

(7) The application of the provisions of Chapter 32 of the General Laws to a member of the optional retirement plan who elects to transfer to the state employees' retirement system shall be those provisions that were in effect on the date such employee was initially appointed.

SECTION 60. Subdivision (2)(b)(i) of Section 40 of Chapter 15A, as so appearing, is hereby amended by striking out, in line 83, the word "ninety" and inserting in place thereof the following words:— one hundred and eighty."

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Scibak of South Hadley; and on the roll call and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 139 in Supplement.]

[Mr. Garballey of Arlington answered "Present" in response to his name.]

Therefore the bill (Senate, No. 2018, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments (striking out the title and inserting in place thereof the following title: "An Act providing for pension reform and benefit modernization"; and striking out the text and inserting a new text — for text, see House, No. 3790, published as amended).

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Elaine Strout-Clements, an employee of the Trial Court (see House, No. 3704, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 50 to 0. Sent to the Senate for concurrence. bank.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the city of Taunton to lease a certain parcel of land (see Senate, No. 1050, amended) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill passed to be engrossed,— yea and nay No. 139.

Elaine Strout-Clements,— sick leave

Taunton,— land.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 150 members voted in the affirmative and 0 in the negative.

Bill enacted (land taking),— yea and nay No. 140.

[See Yea and Nay No. 140 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next sitting.

Mr. deMacedo of Plymouth then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes before six o'clock P.M. (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.