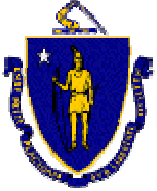


[Senate, [March 31, 2009](#) – Text of the Senate Bill providing responsible reforms in the pension systems ([Senate, No. 2025](#)), printed as amended.]

The Commonwealth of Massachusetts



In the Year Two Thousand and Nine.

AN ACT PROVIDING RESPONSIBLE REFORMS IN THE PENSION SYSTEM.

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. Section 1 of chapter 32 is hereby amended in lines 397-403 by striking out: - ““Regular Compensation”, during any period subsequent to December thirty-first, nineteen hundred and forty-five, shall mean the salary, wages or other compensation in whatever form, lawfully determined for the individual service of the employee by the employing authority, not including,”

And inserting in the place thereof:-

““Regular Compensation”, during any period subsequent to July first, two thousand and nine, shall mean the salary, wages or other compensation in whatever form, lawfully determined for the individual service of the employee by the employing authority, not including, regardless of federal taxability, commissions, indirect, in-kind or any payments for such items as housing, lodging, travel, annuities or other retirement benefits,”

SECTION 2. Section 4 of chapter 32 is hereby amended by striking out the following:-

provided, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official;

SECTION 3. Paragraph (1) of section 4 of chapter 32 is hereby amended by striking subdivisions (o) and (o ½) and inserting in place thereof the following subdivision:- (o) Notwithstanding any general or special law to the contrary, an individual who serves as an unpaid municipal, county or state employee, or an individual who serves as an unpaid elected or appointed municipal, county or state official, or an individual who serves as a an unpaid special county employee, special municipal employee or special state employee, as defined in section 1 of chapter 268A of the General Laws, shall not be permitted to apply creditable service as a result of serving in said position in order to increase his allowable retirement allowance under chapter 32.

SECTION 3A. Said section 4 of said chapter 32 is hereby further amended by adding, after subdivision (o), the following subdivision:-

(o ¾) Notwithstanding any general or special law to the contrary, any municipal, county or state employee who

receives compensation that is less than \$5,000 annually shall not be permitted to apply creditable service as a result of service in a position paying less than \$5,000 annually which occurs on or after January 1, 2010, in order to increase his allowable retirement allowance under chapter 32.

SECTION 4. Subsection (2) of section 5 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

(e) Any person who has been a member of two or more systems, and who, on or after January first, two thousand and ten, has received regular compensation from two or more governmental units concurrently, shall, notwithstanding and general or special law to the contrary, upon retirement receive a superannuation retirement allowance to become effective on the date of retirement that is equal to the sum of the benefits calculated pursuant to this section as though the member were retiring solely from each system, provided, however, that the provisions of this paragraph shall not apply to a member who has received part time creditable service in one or more systems and provided, further, that, notwithstanding the provisions of paragraph (c) of subsection (8) of section 3, each system shall pay the superannuation retirement allowance attributable to membership in that system to the member.

SECTION 5. Subsection 7(2)(a)(ii) of Chapter 32, as appearing in the 2006 Official Edition of the Massachusetts General Laws, is hereby amended by inserting after the words “whichever is greater;” the following words:-

“provided, however, that if on the date of such injury was sustained or such hazard was undergone, the individual was in a temporary or acting position, the amount to be provided under this paragraph shall be based on the average annual rate of his regular compensation during the previous twelve-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective; provided further, that if the individual was in a temporary or acting position, the board may review the severity of the injury or hazard and the circumstances surrounding the injury or hazard and may authorize a yearly amount of pension equal to seventy-two per cent of the annual rate of his regular compensation on the date such injury was sustained or such hazard was undergone;”

SECTION 6. Paragraph (1) of section 10 of chapter 32 is hereby amended in line 4 by striking out the words “or fails of nomination or election,”.

SECTION 7. Said paragraph (1) of section 10 of chapter 32 is hereby further amended in lines 7 to 9, inclusive, by striking out the words “or fails of nomination or election, or fails to become a candidate for nomination or re-election,”.

SECTION 8. Subsection (a) of paragraph (2) of said section 10 of chapter 32 is hereby amended in lines 50 to 51 by striking out the words “and who fails of nomination or re-election”.

SECTION 8A. Paragraph (e) of subsection 2A of section 23 of chapter 32, as appearing in the 2006 Official Edition, is hereby amended by adding the following clause: -

“(xv) not award any compensation package that includes incentive payments for performance in any year in which the total value of the fund is reduced from the total value thereof in the preceding year.

SECTION 8B. Section 10 of Chapter 32 of the General Laws, as so appearing, is hereby amended in paragraph (b) of subsection (2) by striking out the word “six” in line 79 and inserting in place thereof the following word:-
“ten”

SECTION 8C. Section 8a shall apply to persons who initially become a member of Group 1, Group 2 or Group 4 as classified pursuant to section 3 of Chapter 32 of the General Laws, on or after the effective date of this act.

SECTION 9. Section 111 of chapter 182 of the acts of 2008 is hereby amended by adding the following paragraph:-

The Commission shall review Massachusetts contributory retirement systems and make comprehensive recommendations to reform current laws and practices. Issues the Commission shall examine, include, but are not limited to: 1) Current and future employee pension plans and contribution structures; 2) Termination allowances pursuant to section 10 of chapter 32 of the General laws; 3) Group classification systems; 4) Capping annual pension benefits; 5) Penalties for pension fraud; 6) Eligibility for and the level of benefits for employees who participate under 2 or more retirement systems; 7) Qualifications for credit for service pursuant to section 4 of chapter 32 of the General Laws, including minimum compensation limits for officials to be eligible for credit for service. The commission shall file a report of its findings and recommendations, including any drafts of legislation necessary to put its recommendations into effect, with the joint committee on public service no later than September 1, 2009.

SECTION 10. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority or any successor authority, shall enter into an agreement to establish or amend existing retirement or pension benefits only if any employee hired after the effective date of the agreement or amendment may not receive a retirement or pension benefit prior to the completion of 25 years of credited pension service and attained 55 years of age. The Massachusetts Bay Transportation Authority is not prohibited by this section from permitting retirement prior to attaining age 55, provided however, that either:

(i) the employee is entitled to a disability pension under the Massachusetts Bay Transportation Authority retirement system; or (ii) the employee has earned the maximum percentage allowed under the retirement formula of the Massachusetts Bay Transportation Authority retirement system and that the employee waives the ability to collect a pension and retirement benefit due until attaining age 55.

SECTION 11. Chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 22D the following new section:-

Section 22E. (1) Notwithstanding the provisions of any general or special law to the contrary upon the passage of any legislation making changes to any general or special law that affects the commonwealth's pension liability, as defined in section 1, that changes the benefits or contributions of classes of members, including but not limited to early retirement incentive programs, a pension impact statement shall be filed not later than 30 days after such adoption. The pension impact statement shall be prepared or approved by the actuary of the public employee retirement administration commission and shall analyze, study, and evaluate the costs and the actuarial liabilities attributable to the change. The actuary shall also file the pension impact statement with each system to which any portion of the change in liability is attributable and shall send a copy thereof to the secretary for administration and finance and the house and senate committees on ways and means. The actuary may subsequently revise the estimates in a pension impact certificate and revise the required contribution schedule it requires accordingly.

SECTION 12. Notwithstanding any special or general law to the contrary, any amount, benefit or payment included in the definition of "regular compensation", by law or by regulation, as of June 30, 2009, and included in any applicable collective bargaining agreement or individual contract for employment in effect on June 30, 2009, shall continue to be included in the definition of compensation.

SECTION 13. Section 1 shall be effective on July 1, 2009.

SECTION 14. Except as expressly provided otherwise and notwithstanding the provisions of subdivision (5) of section 25 of chapter 32 of the General Laws, the provisions of this act shall apply to all members of retirement systems who retire after its effective date.