



Acts
2011

CHAPTER 176 AN ACT PROVIDING FOR PENSION REFORM AND BENEFIT MODERNIZATION.

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. Clause Twenty-sixth of [section 7 of chapter 4 of the General Laws](#), as appearing in the 2010 Official Edition, is hereby amended by adding the following subclause:-

(t) statements filed under [section 20C of chapter 32](#).

SECTION 2. The second paragraph of [section 50 of chapter 7 of the General Laws](#), as so appearing, is hereby amended by striking out clause (f).

SECTION 3. [Section 40 of chapter 15A of the General Laws](#) is hereby amended by striking out, in line 83, as so appearing, the word "ninety" and inserting in place thereof the following figure:- 180.

SECTION 4. Section 1 of chapter 30B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "services", in line 56, the following words:- ; provided, however, that the procurements shall take place under [section 23B of chapter 32](#).

SECTION 5. The definition of "maximum age" in [section 1 of chapter 32](#), as so appearing, is hereby amended by striking out the figure "55" and inserting in place thereof the following figure:- 65.

SECTION 6. The first sentence of the definition of "regular compensation" in said [section 1 of said chapter 32](#), as so appearing, is hereby amended by inserting after the word "date" 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.

SECTION 7. The definition of "wages" in [section 1 of said chapter 32](#), as so appearing, is hereby amended by inserting after the word "firefighters" the following words:- , correctional officers.

SECTION 8. Paragraph (g) of subdivision (2) of [section 3 of said chapter 32](#), 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 April 2, 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 the member seeks classification for not less than 12 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.

SECTION 9. Paragraph (b) of subdivision (8) of [section 3 of said chapter 32](#), as so appearing, is hereby amended by inserting after the third sentence the following sentence:- Notwithstanding any provision of this chapter to the contrary, a member who is reinstated to, or re-enters the active service of, a governmental unit, or who is eligible to receive credit for other service under this section, and who does not, (i) pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest; or (ii) make provision for the repayment in installments, upon such terms and conditions as the board may prescribe, to pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest, within 1 year from the date of reinstatement or re-entry or within 1 year after April 2, 2012, whichever is later, shall pay actuarial assumed interest instead of buyback interest on all make-up payments to be entitled to creditable service resulting from the previous employment.

SECTION 10. Subdivision (1) of said [section 4 of said chapter 32](#), as so appearing, is hereby amended by inserting after paragraph (g $\frac{1}{2}$) the following paragraph:-

(g $\frac{3}{4}$) The period or periods before 1975 during which any retired member of the Teachers Retirement System or any retired member of the Boston Teachers Retirement System who (i) is living and retired before September 1, 2000, (ii) resigned for the purposes of maternity leave or was on unpaid leave of absence for such purposes from the governmental unit in which the member was employed as a teacher, and (iii) had established membership in a Massachusetts contributory retirement system shall be allowed under this paragraph a maximum of creditable service not to exceed 4 years creditable service. No credit shall be allowed under this paragraph for any member who was not retired as of September 1, 2000. The credit allowed under this paragraph shall increase the retirement allowance payments beginning on April 2, 2012.

SECTION 11. [Section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out, in line 3, the word "fifty-five" and inserting in place thereof the following words:- 55 or any member in service or any member inactive on authorized leave of absence classified in Group 1 who became such a member on or after April 2, 2012 who has attained age 60.

SECTION 12. Said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by inserting after the word "service", in line 38, the following words:- , together with buyback interest, and shall satisfy the requirements for reinstatement under subsection (a) of section 105.

SECTION 13. Said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by inserting after the word "retirement", in line 97, the following words:- ; provided, however that for a member who became a member on or after April 2, 2012, the total amount of regular compensation shall be based on the average annual rate of regular compensation received by such member during

any period of 5 consecutive years of creditable service for which such rate of compensation was the highest, or on the average annual rate of regular compensation received by such member during the period or periods, whether consecutive or not, constituting the member’s last 5 years of creditable service preceding retirement, whichever is the greater.

SECTION 14. Paragraph (a) of subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the first sentence the following 4 sentences:- Notwithstanding the previous sentence, if in the 5 years of creditable service immediately preceding retirement, the difference in the annual rate of regular compensation between any 2 consecutive years exceeds 100 per cent, the normal yearly amount of the retirement allowance shall be based on the average annual rate of regular compensation received by the member during the period of 5 consecutive years preceding retirement. Any active member as of April 2, 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 retirement allowance for members who became members on or after April 2, 2012, and who served in more than 1 group, shall receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that member rendered in each group. The pro-rated benefits shall be calculated in a manner prescribed by the commission. A member who entered service on or before April, 2, 2012 and seeks Group 2 or Group 4 classification and is no longer a public employee at the time of the member’s retirement shall be classified based on the position from which the member was last employed.

SECTION 15. The table in said paragraph (a) of said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out the title and inserting in place thereof the following title:-

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 became members before April 2, 2012.

SECTION 16. 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:-

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 April 2, 2012

Per Cent Group 1 Group 2 Group 4

2.50	67 or older	62 or older	57 or older
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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

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 April 2, 2012 and with at least 30 years of creditable service at the time of retirement

Per Cent Group 1 Group 2 Group 4

2.50	67 or older	62 or older	57 or older
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
1.625	60	55	50

SECTION 17. Paragraph (c) of said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by adding the following sentence:- The total normal yearly amount of the retirement allowance of any member of Group 1 or Group 2 or Group 4, who becomes such a member on or after April 2, 2012, shall not exceed four-fifths of the average annual rate of such member’s regular compensation received during any period of 5 consecutive years of creditable service for which such rate of compensation was the highest or on the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting such member’s last 5 years of creditable service preceding retirement, whichever is the greater.

SECTION 18. Said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by adding the following paragraph:-

(f) In calculating the average annual rate of regular compensation for purposes of this section, regular compensation in any year shall not include regular compensation that exceeds the average of regular compensation received in the 2 preceding years by more than 10 per cent. This paragraph shall not apply to an increase in the annual rate of regular compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, excluding a modification in the salary or salary schedule negotiated for bargaining unit members under [chapter 150E](#), or in the case of a teacher, from the performance of any services set forth in the third sentence of the first paragraph of the definition of “regular compensation” in section 1. Any withholdings excluded from the calculation of a member’s average annual rate of regular compensation under this paragraph, shall be returned to the member with interest at the assumed actuarial rate.

SECTION 19. Paragraph (b) of subdivision (3) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any duly authorized leave or period of absence for which any member is allowed creditable service under sections 1 to 28, inclusive, and any such leave or period of absence not in excess of 1 year for which such member is not allowed creditable service, shall be included in any applicable 3-year or 5-year period to determine the average annual rate of such member’s regular compensation therefor to the extent such leave or period of absence falls within such applicable 3-year or 5-year

period, anything in such sections to the contrary notwithstanding.

SECTION 20. Paragraph (i) of subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the tenth sentence the following sentence:- In the case of an employee who becomes a member on or after April 2, 2012, and has at least 30 years of creditable service, the on-going rate of contribution under this paragraph shall be reduced by 3 per cent.

SECTION 21. Paragraph (ii) of said subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the words "creditable service", in line 298, the following words:- , and in the case of any employee who becomes a member on or after January 1, 2012, to be increased by 2 per cent per year for each full year of service in excess of 23 years of creditable service.

SECTION 22. Said subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by adding the following paragraph:-

The total normal yearly amount of the retirement allowance, as determined under this subdivision of any employee who becomes such a member on or after April 2, 2012, and retires and receives an additional benefit under the alternative superannuation retirement benefit program shall not exceed four-fifths of the average annual rate of such member's regular compensation received during any period of 5 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of such member's regular compensation received during the period or periods, whether or not consecutive, constituting the member's last 5 years of creditable service preceding retirement, whichever is greater.

SECTION 23. Subdivision (2) of [section 6 of said chapter 32](#), as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) The normal yearly amount of such allowance for any member classified in Group 1, Group 2 or Group 4 other than a veteran as defined in section 1 shall be equal to that to which the member would be entitled under section 5 as prescribed for a member of the member's group, if the member were to be retired for superannuation upon the attainment of age 55, or for any member classified in Group 1 who became such a member on or after April 2, 2012 if such member were to be retired for superannuation upon the attainment of age 60, with an amount of creditable service equal to that with which the member is credited at the date of the member's actual retirement for ordinary disability; provided, however, that if the member has attained age 55, or for a member classified in Group 1 who became such a member on or after April 2, 2012 if the member has attained age 60, the normal yearly amount of such allowance shall in no event be less than that to which the member would be entitled if the member were to be retired for superannuation under section 5 as prescribed for a member in the member's group; and provided, further, that the normal yearly amount of such allowance for a member who became such a member before April 2, 2012 shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 3 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of

regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 3 years of creditable service preceding retirement, whichever is greater; and provided, further, that for a member who became such a member on or after April 2, 2012 the normal yearly amount of such amount shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 5 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 5 years of creditable service preceding retirement, whichever is greater.

SECTION 24. Subdivision (1) of section 10 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:-This subdivision shall not apply to any member who entered service on or after April 2, 2012.

SECTION 25. Subdivision (2) of said section 10 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:- This subdivision shall not apply to any member who entered service on or after April 2, 2012.

SECTION 26. Said section 10 of said chapter 32, as so appearing, is hereby further amended by inserting after subdivision (2) the following subdivision:-

(2A) Notwithstanding subdivision (1) or (2) any member classified in Group 1, Group 2 or Group 4, who became a member on or after April 2, 2012, has completed 10 or more years of creditable service, and:

(a) who fails of reappointment;

(b) who is removed or discharged from the member's office or position without moral turpitude on the member's part;

(c) who accepts, during or prior to the expiration of a term for which the member was elected, appointment to an office or position the acceptance of which requires under the constitution of the commonwealth resignation from the general court;

(d) whose office or position is abolished; or

(e) who resigns or voluntarily terminates the member's service, who leaves the member's accumulated total deductions in the annuity savings fund of the system of which the member is a member, shall have the right upon attaining the minimum retirement age for the member's Group, or at any time thereafter, to apply for a superannuation retirement allowance to become effective under subdivision (3).

Such allowance shall be determined under section 5 or any other section governing superannuation retirement applicable to such member upon the basis of the member's age on the date when the retirement allowance becomes effective, with an amount of creditable service equal to that with which the member was credited on the date of the member's termination of service.

SECTION 27. Said section 10 of said chapter 32, as so appearing, is hereby further amended by

striking out, in lines 112 and 113, the words “or (2)” and inserting in place thereof the following words:-
,(2) or (2A).

SECTION 28. Option (d) of subdivision (2) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-
If such member dies before attaining age 55 and before being retired, such nominated eligible beneficiary shall receive the Option (c) allowance to which such member would have been entitled had the member attained age 55 at the time of the member’s death and had the member’s retirement taken place on the date of the member’s death. Notwithstanding the previous sentence, if a member of Group 1 who became such a member on or after April 2, 2012 dies before attaining age 60 and before being retired, such nominated eligible beneficiary shall receive the Option (c) allowance to which such member would have been entitled had the member attained age 60 at the time of the member’s death and had the member’s retirement taken place on the date of the member’s death.

SECTION 29. Said section 12 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 211 and 212, the words “two hundred and fifty dollars” and inserting in place thereof the following words:- \$250 or \$500 a month, whichever is applicable to such spouse.

SECTION 30. Option (d) of said section 12 of said chapter 32, as so appearing, is hereby amended by inserting after the tenth paragraph the following paragraph:-

Beginning April 2, 2012, the normal monthly member-survivor allowance provided for under this option to a spouse of a deceased member shall not be less than \$500 for members of the state teachers’ and state employees’ retirement system. This paragraph shall take effect for the members of a retirement system of any other political subdivision by a majority vote of the board of such system and by the local legislative body. For the purpose of this paragraph, a vote of the legislative body shall take place in the following manner: in a city, by a vote of the city council subject to its charter; in a town, by a vote at a town meeting; in a county, by a vote of the county retirement board advisory council; in a region, by a vote of the regional retirement board advisory council; in a district, by a vote of the district members; and for an authority, by a vote of its governing body. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commission.

SECTION 31. Section 15 of said chapter 32, as so appearing, is hereby amended by adding the following subdivision:-

(6) If a member’s final conviction of an offense results in a forfeiture of rights under this chapter, the member shall forfeit, and the board shall require the member to repay, all benefits received after the date of the offense of which the member was convicted.

SECTION 32. Paragraph (b) of subdivision (1) of section 16 of said chapter 32, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following:-

(i) Any member in service, classified in Group 1, Group 2 or Group 4 who has attained age 55 and completed 15 or more years of creditable service;

- (ii) any member in service, classified in Group 1, Group 2 or Group 4 who has not attained age 55 but who has completed 20 or more years of creditable service;
- (iii) any member in service, who entered such service on or after April 2, 2012, classified in Group 1 who has attained age 60 and completed 15 or more years of creditable service; or
- (iv) any member in service, who entered such service on or after April 2, 2012, classified in Group 1 who has not attained age 60 but who has completed 20 or more years of creditable service, for whom an application for such member's retirement is filed by the head of such member's department under paragraph (a) of this subdivision, may, within 15 days of the receipt of such member's copy of such application, file with the board a written request for a private or public hearing upon such application.

SECTION 33. Section 20 of said chapter 32, as so appearing, is hereby amended by inserting after subdivision (4 7/8D) the following subdivision:-

(4 7/8E) No employee, contractor, vendor or person receiving remuneration, financial benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the retirement board, from a retirement board or from a person doing business with a retirement board shall be eligible to serve on a retirement board; provided, however, that an employee of a retirement board may serve on a retirement board other than the retirement board by which the person is employed; and provided further, this subdivision shall apply only to individuals who first become members of a retirement board on or after April 2, 2012.

SECTION 34. Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

(6) *Retirement Board Members Compensation.*-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system.

SECTION 35. Said section 20 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(7) *Retirement Board Member Training.*- During each full term of service retirement board members shall undertake 18 hours of training; provided, however, that not less than 3 hours of such training shall take place each year and not more than 9 hours may take place in any single year; provided, however, that nothing in this subdivision shall prohibit such retirement board members from undertaking more than 18 hours of training.

Such training shall consist of 9 hours sponsored by the commission, which shall include, at a minimum, the topics of fiduciary responsibility, ethical conduct and conflict of interest and 9 hours of training on topics prescribed by the commission provided by the Massachusetts Association of

Contributory Retirement Systems or other local, state, regional and national organizations recognized by the commission as having expertise in retirement issues of importance to retirement board members or other entities, as the commission may determine.

The commission shall arrange for at least 18 sessions during each year for members to complete this requirement. In addition, the commission shall schedule additional sessions or otherwise make accommodations to ensure that members are afforded the maximum opportunity to complete this requirement.

The commission shall annually provide retirement boards with a statement of completion of education form on or before December 31. The board shall provide the forms to their members. The form shall set forth the training as required by this subdivision the member has undertaken during that year. Board members shall submit the completed form to the commission by January 31 of the year following. The commission shall annually provide the member with a summary of the member's status regarding the completion of this requirement by March 1.

Failure to successfully complete the requirements of this subdivision shall prohibit a board member from serving beyond the conclusion of the term in which the failure took place. If the non-complying member is an ex-officio member or a second member, of a board the appointing authority for the second member shall appoint a different individual to serve on the board; provided, however, that the replacement of an ex-officio member shall be an individual experienced in the field of finance or auditing; and provided further, that in a regional retirement system non-complying members shall be replaced in the same manner as is set forth for the selection of the members.

Each retirement board shall notify all board members and prospective board members of the requirement to complete education requirements at the time of receiving information about seeking election to a retirement board or prior to being appointed to a retirement board.

The commission shall annually notify board members of the requirement to complete continuing education.

SECTION 36. Said chapter 32 is hereby further amended by inserting after section 20B the following section:-

Section 20C. Retirement Board Member Statement of Financial Interest.- (a) Every member of a retirement board shall file a statement of financial interests for the preceding calendar year with the commission: (i) within 30 days of becoming a member of a retirement board; (ii) by May 1 of each year thereafter that the person is a member of a retirement board; and (iii) by May 1 of the year after the person ceases to be a member of a retirement board.

(b) The commission shall, upon receipt of a statement of financial interests under this section, issue to the person filing the statement a receipt verifying the fact that a statement of financial interests has been filed and a receipted copy of the statement.

(c) No member of a retirement board may continue in the member's duties unless the member has filed a statement of financial interests with the commission as required by this section.

(d) The statement of financial interests filed under this section shall be on a form prescribed by the commission and shall be signed under penalty of perjury by the reporting person.

(e) A reporting person shall disclose, to the best of the person's knowledge, the following information

for the preceding calendar year, or as of the last day of the year with respect to the information required by clauses (2), (3) and (6); provided, however, that the person shall also disclose the same information with respect to the person's immediate family; and provided further, that no amount need be given for the information about the reporting person's immediate family:

- (1) the name and address of, the nature of association with, the share of equity in, if applicable, each business with which the person is associated;
- (2) the identity of all securities and other investments with a fair market value of greater than \$1,000 which were beneficially-owned, not otherwise reportable hereunder;
- (3) the name and address of each creditor to whom more than \$1,000 was owed; provided, however, that obligations arising out of retail installment transactions, educational loans, medical and dental expenses, debts incurred in the ordinary course of business and any obligation to make alimony or support payments, shall not be reported; and provided further, that such information need not be reported if the creditor is a relative of the reporting person within the third degree of consanguinity or affinity;
- (4) the name and address of the source and the cash value of any reimbursement for expenses aggregating more than \$100 in the calendar year if the recipient is a member of a retirement board and the source of the reimbursement is a person having a direct interest in a matter before the retirement board of which the recipient is a member;
- (5) the name and address of the donor and the fair market value, if determinable, of any gifts aggregating more than \$100 in the calendar year, if the recipient is a member of a retirement board and the source of the gift is a person having a direct interest in a matter before the retirement board of which the recipient is a member;
- (6) the name and address of the source and the fair market value of any honoraria aggregating more than \$100 if the recipient is a member of a retirement board and the source of such honoraria is a person having a direct interest in a matter before a retirement board;
- (7) the name and address of any creditor who has forgiven an indebtedness of over \$1,000 and the amount forgiven if the creditor is a person having a direct interest in a matter before a retirement board; provided, however, that no such information need be reported if the creditor is a relative within the third degree of consanguinity or affinity of the reporting person, or the spouse of such a relative; and
- (8) the name and address of any business from which the reporting person is taking a leave of absence.

Nothing in this section shall be construed to require the disclosure of information, which is privileged by law.

Failure of a reporting person to file a statement of financial interests within 30 days of receipt of the notice in writing from the commission which states in detail the deficiency and the penalties for failure to file a statement of financial interests or the filing of an incomplete statement of financial interests after receipt of a notice shall result in the removal of the reporting person from the board and the reporting person shall not serve on a retirement board established under this chapter, under chapter 34B or the retirement board of the Massachusetts Water Resources Authority; provided, however, that, if the reporting person has filed an incomplete statement of financial interests the removal shall

be stayed upon the filing of an appeal under subdivision (4) of section 16. If the non-complying member is an ex-officio member, the member's appointing authority shall appoint a different individual to serve on the board or if the member is directly elected by the people, a different individual shall be appointed to serve on the board by the mayor, county commissioners or board of selectman as the case may be.

SECTION 37. Paragraph (a) of subdivision (1) of section 21 of said chapter 32, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:- Each board shall maintain a copy of all collective bargaining agreements which cover the system's members and shall make the agreements available to the commission for review at such time as the commission shall specify.

SECTION 38. Said chapter 32 is hereby further amended by inserting after section 21 the following section:-

Section 21A. *Debarment or Suspension of Contractors or Vendors.*- (a) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:-

"Affiliates", entities which are affiliates of each other when either directly or indirectly 1 concern or individual controls or has the power to control another or when a third party controls or has the power to control both.

"Contract", a contract for the furnishing of supplies or services to a retirement board.

"Debarment", an exclusion from contracting or subcontracting with a retirement board for a reasonable and specified period of time commensurate with the seriousness of the offense.

"Person", a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

"Retirement board", a board established under chapter 32, chapter 34B or the retirement board of the Massachusetts Water Resources Authority, excluding the pension reserves investment management board.

"Suspension", the temporary disqualification of a vendor who is suspected upon adequate evidence of engaging or having engaged in conduct which constitutes grounds for debarment.

"Vendor", a person that has furnished or seeks to furnish supplies or services under a contract with a retirement board.

(b) The commission shall establish and maintain a consolidated list of vendors to whom contracts shall not be awarded and from whom offers, bids or proposals shall not be solicited. The list shall show at a minimum the following information:

(1) the names of those persons debarred or suspended in alphabetical order with appropriate cross reference where more than 1 name is involved in a single debarment or suspension;

(2) the basis of authority for each debarment or suspension;

(3) the extent of restrictions imposed;

(4) the termination date of each debarment or suspension; and

(5) in the case of a suspension, the hearing date, if and when set, for debarment proceedings.

The commission shall cause the list to be kept current by the issuance of notices of additions and

deletions. The list shall be published on a periodic basis, together with notices of additions and deletions, in the goods and services bulletin and the central register published by the state secretary and in other publications as the commission shall designate. The commission shall also forward the list to the inspector general, the attorney general and the state auditor.

(c) Debarment may be imposed for the following causes:

(1) conviction or final adjudication by a court or administrative agency of competent jurisdiction of any of the following offenses:

- (i) a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (ii) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the vendor's present responsibility as a public contractor;
- (iii) a violation of state or federal antitrust laws arising out of the submission of bids or proposals;
- (iv) a violation of chapter 268A; or
- (v) a violation of this chapter.

(2) substantial evidence, as determined by the commission, of any of the following acts:

- (i) willfully supplying materially-false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;
- (ii) willful failure to comply with record-keeping and accounting requirements prescribed by law or regulation;
- (iii) a record of failure to perform or of unsatisfactory performance under the terms of 1 or more public contracts; provided, however, that the failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar; and provided further, that the failure to perform or unsatisfactory performance was not caused by factors beyond the vendor's control;
- (iv) the submission to the board or the commission of an inaccurate disclosure statement;
- (v) the failure to disclose to the board and the commission compensation provided to a person in regards to attempting to obtain or the performance of a public contract or subcontract, including, but not limited to, compensation provided by third parties retained by the vendor to another person; or
- (vi) any other cause affecting the responsibility of a vendor which the commission determines to be of a serious and compelling nature as to warrant debarment.

(d) No vendor may be suspended unless the commission has first informed the vendor by written notice of the proposed suspension mailed by registered or certified mail to the vendor's last known address, except when the commission determines that immediate suspension is necessary to prevent serious harm to the retirement system, in which case the suspension shall take effect immediately upon signing by the executive director of the commission of an order of suspension and notice shall be mailed to the vendor as soon as possible. The notice shall inform the vendor of the reasons for the proposed suspension and shall state that the vendor may, within 14 days, respond in writing and may in the response request a hearing. The commission may extend the period for response at the request of the vendor. The commission shall determine whether to impose the suspension or, in the case of an

emergency suspension imposed prior to notice to the vendor, whether to continue the suspension after reviewing the vendor's response, if any, and making an investigation as the commission determines is necessary and appropriate. An indictment, or any information or other filing by a public agency charging a criminal offense, for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence to support a suspension.

If the vendor requests a hearing and the suspension is not based on an indictment, the commission shall conduct a hearing according to the rules for the conduct of adjudicatory hearings established by the secretary of administration under chapter 30A. The hearing shall be initiated within 30 days of the imposition of the suspension, unless the vendor requests that the hearing be delayed. Officers and employees of the commission and records of the commission shall not be subject to subpoena for such hearing, if in the opinion of the commission production of records or testimony would prejudice any pending investigation by the commission.

A suspension shall not exceed 12 months unless a pending administrative or judicial proceeding in which the vendor is a party may result in a conviction or final adjudication of an offense listed in paragraph (1) of subsection (c).

(e) No vendor may be debarred under this section unless the commission has first informed the vendor of the proposed debarment by written notice mailed by registered or certified mail to the vendor's last known address. The notice shall inform the vendor of the reasons for the debarment and shall state that the vendor will have an opportunity for a hearing if the vendor so requests within 14 days of receipt of the notice. A hearing requested under this paragraph shall be conducted by the commission within 60 days of receipt of the request, unless the commission grants additional time at the request of the vendor. The hearing shall be conducted according to the rules for the conduct of adjudicatory hearings established by the secretary of administration under chapter 30A. A debarment shall not be imposed until (i) 14 days after receipt by the vendor of notice of the proposed debarment if no hearing is requested; or (ii) the issuance of a written decision by the commission which makes specific findings that there is sufficient evidence to support the debarment and that debarment for the period specified in the decision is required to protect the integrity of the public contracting process. A vendor shall be notified forthwith by registered or certified mail of the decision and of the vendor's right to judicial review in the event that the decision is adverse to the vendor. If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(f) A debarment or suspension may include all known affiliates of a vendor. The decision to include a known affiliate within the scope of a debarment or suspension shall be made on a case-by-case basis, after giving due regard to all relevant facts and circumstances. The offense or act of an individual justifying suspension, or the evidence justifying a suspension, may be imputed to the entity with which the individual is connected when such offense or act occurred in connection with the individual's performance of duties for or on behalf of the entity or with the knowledge, approval, or acquiescence of the entity or 1 or more of its principals. The entity's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence. The offense or act of an entity justifying debarment, or the evidence justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the entity who participated in, knew of, or had reason to know of the entity's act. An entity may not be suspended or debarred

except in accordance with the procedures in this section.

(g) In determining whether to debar a vendor, or the period of a debarment, all mitigating facts and circumstances shall be taken into consideration. A debarment may be removed or the period of debarment may be reduced by the commission upon the submission of an application supported by documentary evidence setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a judgment or conviction, bona fide change of ownership or management or the elimination of the cause for which the debarment was imposed.

(h) During the period for which a person has been debarred or suspended, that person shall not submit or cause to be submitted offers, bids, or proposals to any retirement board, nor shall any retirement board solicit or consider offers, bids, or proposals from, nor execute, renew, or extend any contract with, a debarred or suspended vendor and a vendor shall not contract for services from a debarred or suspended subcontractor on any contract with a retirement system.

SECTION 39. Paragraph (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2010 Official Edition, is hereby amended by striking out clauses (v) and (vi) and inserting in place thereof the following 4 clauses:-

(v) withhold on each pay day 12 per cent of the regular compensation of each employee who is a member of the state police appointed pursuant to section 10 of chapter 22C, and is a member in service of the system, which is received on the day by the member on account of service rendered by the employee on or after July 1, 1996, and not later than the date of his attaining the maximum age for his group in the case of an employee who entered the service of the state police on or after July 1, 1996;

(vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001;

(vii) withhold on each pay day 6 per cent of the regular compensation of each employee in group 1 who is a member in service of the system, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after April 2, 2012 and who has least 30 years of creditable service; and

(viii) withhold on each pay day 8 per cent of the regular compensation of each employee who is a member in service of the system and participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after April 2, 2012 and who has least 30 years of creditable service.

SECTION 40. Subdivision (2) of section 23 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph: -

(b) The board of each system shall invest and reinvest the funds of the system in the PRIT Fund under subdivision (8) of section 22, in the PRIT Fund by purchasing shares of the fund, as provided for in the trust agreement adopted by the PRIM board under subdivision (2A), or under the standards in subdivision (3), provided that: (i) 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 products; (ii) in investing funds the board shall employ an investment manager or investment managers who shall invest the funds of the system; and (iii) no funds shall be invested directly in mortgages or collateral loans.

(c) No investment of funds shall take place until the board has received from the commission an acknowledgement of receipt of the following: (i) certification that, in making the selection, the board has complied with the process established in section 23B; (ii) a copy of the vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the selected vendor; (iv) a certification that the investment is not a prohibited investment as set forth in regulations of the commission; (v) if the board has retained a consultant, a copy of the consultant reports pertaining to the investment and the selected vendor; and (F) a copy of the board certification required under section 23B.

The commission may withhold the acknowledgement if it determines that it is in the best interest of the retirement system; provided, however, that it must so notify the board within 10 days of receipt of completed documents as required by this section.

(d) Prior to the retention of an investment consultant the board shall have received from the commission an acknowledgement of receipt of the following: (i) certification that, in making the selection, the board has complied with the process established in section 23B; (ii) copy of the vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the selected consultant; and (iv) copy of the board certification required under section 23B.

SECTION 41. Subdivision (3) of said section 23 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:-

Each member of a retirement board established under this chapter shall upon the commencement of the member's term file with the commission a statement acknowledging the member is aware of and will comply with the standards set forth in chapter 268A, this chapter and rules and regulations promulgated under this chapter.

SECTION 42. Said chapter 32 is hereby further amended by inserting after section 23 the following section:-

Section 23B. (a) This section shall apply to every retirement board contract for the procurement of investment, actuarial, legal and accounting services.

(b) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:-

“Contract”, an agreement for the procurement of services, regardless of what the parties may call the agreement.

“Contractor”, a person having a contract with a retirement board.

“Majority vote”, as to any action by or on behalf of a retirement board, a simple majority of the board.

“Minor informalities”, minor deviations, insignificant mistakes and matters of form rather than substance of the proposal or contract document which can be waived or corrected without prejudice to other offerors, potential offerors or the retirement board.

“Person”, a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

“Procurement”, buying, purchasing, renting, leasing, or otherwise acquiring a supply or service, and all functions that pertain to the obtaining of a supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

“Procurement officer”, an individual duly authorized by the retirement board to assist in a procurement.

“Proposal”, a written offer to provide a service at a stated price submitted in response to a request for proposals.

“Purchase description”, the words used in a solicitation to describe the services to be purchased, including specifications attached to or incorporated by reference into the solicitation.

“Request for proposals”, the documents utilized for soliciting proposals, including documents attached or incorporated by reference.

“Responsible bidder or offeror”, a person who has the capability to perform fully the contract requirements and the integrity and reliability which assures good faith performance.

“Responsive bidder or offeror”, a person who has submitted a bid or proposal which conforms in all respects to the request for proposals.

“Retirement board”, a board established under this chapter, chapter 34B or the retirement board of the Massachusetts Water Resources Authority excluding the pension reserves investment management board.

“Services”, the furnishing of labor, time or effort by a contractor, not involving the furnishing of a specific end product other than reports; provided, however, that the term shall not include employment agreements, collective bargaining agreements or grant agreements.

(c) A retirement board shall enter into procurement contracts for investment, actuarial, legal and accounting services utilizing competitive sealed proposals, in accordance with this section.

(d) A retirement board that awards a contract shall maintain a file on each contract and shall include in the file a copy of all written documents required by this section. Written documents required by this section shall be retained by the retirement board for at least 6 years from the date of final payment under the contract.

(e) The retirement board or its procurement officer shall give public notice of the request for proposals and a reasonable time prior to the date for the opening of proposals. The notice shall:

- (1) indicate where, when and for how long the request for proposal may be obtained;
- (2) describe the service desired and reserve the right of the retirement board to reject any or all bids;
- (3) remain posted, for at least 2 weeks, in a conspicuous place in or near the offices of the retirement board until the time specified in the request for proposals; and
- (4) be published at least once, not less than 2 weeks prior to the time specified for the receipt of proposals, in a newspaper of general circulation within the area served by the retirement board and in the case of a procurement for investment, accounting, actuarial or legal services in a publication of interest to those engaged in providing such services.

The retirement board or its procurement officer shall also place the notice in a publication established by the state secretary for the advertisement of such procurements.

The retirement board or its procurement officer may distribute copies of the notice to prospective bidders and may compile and maintain lists of prospective bidders to which notices may be sent.

(f) The retirement board shall unconditionally accept a proposal without alteration or correction, except as provided in this section. A bidder may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the proposal opening. After proposal opening, a bidder may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the retirement board or fair competition. The retirement board shall waive minor informalities or allow the bidder to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct proposal and so notify the bidder in writing and the bidder may not withdraw the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct proposal is not similarly evident.

(g) The retirement board shall solicit proposals through a request for proposals. The request for proposals shall include:

- (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered and the maximum time for proposal acceptance by the retirement board;
- (2) the purchase description and all evaluation criteria that may be utilized under subsection (h); and
- (3) all contractual terms and conditions applicable to the procurement; provided, however, that the contract may incorporate by reference a plan submitted by the selected offeror for providing the required services.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain the documents. The retirement board or its procurement officer shall make copies of the request for proposals available to all persons on an equal basis.

(h) The retirement board or its procurement officer shall not open the proposals publicly, but shall open them in the presence of 1 or more witnesses at the time specified in the request for proposals. Notwithstanding section 7 of chapter 4, until the completion of the evaluations or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the retirement board or its procurement officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection.

(i) The retirement board or its consultant retained under this chapter shall be responsible for the initial evaluation of the proposals. The retirement board or its consultant retained under this chapter shall prepare initial evaluations based solely on the criteria set forth in the request for proposals. The evaluations shall specify in writing:

- (1) a rating of each proposal evaluation criteria as highly advantageous, advantageous, not advantageous or unacceptable, and the reasons for the rating;
- (2) a composite rating for each proposal and the reasons for the rating; and
- (3) revisions, if any, to each proposed plan for providing the required services which should be

obtained by negotiation prior to awarding the contract to the offeror of the proposal.

If the initial evaluation is conducted by a consultant retained under this chapter the consultant shall review all initial evaluations with the retirement board and provide to each member of the retirement board the initial evaluation of each proposal.

(j) The retirement board shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement. The retirement board may condition an award on successful negotiation of the revisions specified in the evaluation and shall explain in writing the reasons for omitting any revision from a plan incorporated by reference in the contract.

(k) (1) In the event of a competitive process to select an investment service provider the request for proposals shall include mandatory contractual terms and conditions to be incorporated into the contract including provisions:

(a) stating that the contractor is a fiduciary with respect to the funds which the contractor invests on behalf of the retirement board;

(b) stating that the contractor shall not be indemnified by the retirement board;

(c) requiring the contractor to annually inform the commission and the board of any arrangements in oral or in writing, for compensation or other benefit received or expected to be received by the contractor or a related person from others in connection with the contractors services to the retirement board or any other client;

(d) requiring the contractor to annually disclose to the commission and the retirement board compensation, in whatever form, paid or expected to be paid, directly or indirectly, by the contractor or a related person to others in relation to the contractors services to the retirement board or any other client; and

(e) requiring the contractor to annually disclose to the commission and the retirement board in writing any conflict of interest the contractor may have that could reasonably be expected to impair the contractor's ability to render unbiased and objective services to the retirement board. Other mandatory contractual terms and conditions shall address investment objectives, brokerage practices, proxy voting and tender offer exercise procedures, terms of employment and termination provisions.

The retirement board shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals.

The retirement board or its duly designated agent, subject to the approval of the retirement board, may negotiate all terms of the contract not deemed mandatory or non-negotiable with the offeror. If, after negotiation with the offeror, the retirement board, in consultation with its duly designated agent and its consultant retained under this chapter, determines that it is in the best interests of the retirement board to not award the contract to that offeror, the retirement board may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals and may negotiate all terms of

the contract with the offeror.

The retirement board shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The time for acceptance may be extended for up to 45 days by mutual agreement between the retirement board and the responsible and responsive offeror offering the most advantageous proposal as determined by the retirement board.

On or before January 1 of each year the contractor shall file the disclosures required with the board and the commission. Failure to file disclosures or the filing of inaccurate disclosures shall subject the contractor to proceedings under section 21A.

(2) The retirement board may cancel a request for proposals or may reject in whole or in part any and all proposals when the retirement board determines that cancellation or rejection serves the best interests of the system. The retirement board shall state in writing the reason for a cancellation or rejection.

(3) A person submitting a proposal for the procurement or disposal of services to a retirement board shall certify in writing on the proposal as follows:

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

(Signature of individual submitting bid or proposal)

(Name of business)

(4) Each retirement board member shall certify to the commission in writing with respect to a procurement subject to this section, as follows:

The undersigned certifies under penalties of perjury that, to the best of the members knowledge and belief, this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

(Signature of individual retirement board member)

(Name of retirement board)

(5) No person shall cause or conspire to cause the splitting or division of a request for proposals, proposal, solicitation or quotation for the purpose of evading a requirement of this section.

(6) Unless otherwise provided by law and subject to clause (i), a retirement board may enter into a contract for a period of time which serves the best interests of the retirement board; provided, however, that the retirement board shall include in the solicitation the term of the contract and conditions of renewal, extension or purchase, if any.

(i) A retirement board shall not award a contract for a term exceeding 5 years, including any renewal, extension or option; provided, however, that a retirement board may participate in a limited partnership, trust or other entity with a term for a period longer than 5 years as part of an investment of system assets.

When a contract is to contain an option for renewal, extension or purchase, the solicitation shall include notice of the provision. The retirement board shall retain sole discretion in exercising the option and no exercise of an option shall be subject to agreement or acceptance by the contractor.

(ii) The retirement board shall not exercise an option for renewal, extension or purchase unless the retirement board, after reasonable investigation of costs and benefits, has determined in writing that the exercise of the option is more advantageous than alternate means of procuring comparable services.

(7) All specifications shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary service or procurement from a sole source.

(8) All contracts shall be in writing and the retirement board shall make no payment for a service rendered prior to the execution of the contract.

(i) A contract made in violation of this section shall not be valid and the retirement board shall make no payment under such contract. Minor informalities shall not require invalidation of a contract.

(ii) A person who causes or conspires with another to cause a contract to be solicited or awarded in violation this section shall forfeit and pay to the appropriate retirement board not more than \$2,000 for each violation. In addition, the person shall pay double the amount of damages sustained by the retirement board by reason of the violation, together with the costs of any action. If more than 1 person participates in the violation, the damages and costs may be apportioned among them.

(iii) The commission or the retirement board may file a civil action in the superior court to enforce clause (ii).

SECTION 43. Subdivision (3) of section 26 of chapter 32, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 75 and 82, the word "fifty-five" and inserting in place thereof, in each instance, the following figure:- 65.

SECTION 44. Said subdivision (3) of said section 26 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) Upon retirement under this subdivision, a member shall receive a retirement allowance to become effective on the date of the member's retirement. Payments under such retirement allowance shall be made as provided for in sections 12 and 13 and the normal yearly amount of the retirement allowance shall be equal to 60 per cent of the average annual rate of the member's regular compensation during the 12-month period of the member's creditable service immediately preceding the date the member's retirement allowance becomes effective; provided, that for members who became members in service before April 2, 2012, the total amount of the allowance shall be increased by one-twelfth of 3 per cent for each full month of service in excess of 20 years of service and prior to the last day of the month in which such member will reach the age of 55; provided, further, that for a member who became a member in service on or after April 2, 2012, the normal yearly amount of the retirement allowance

shall be equal to 50 per cent of the average annual rate of the member's regular compensation during the 12-month period of the member's creditable service immediately preceding the date the member's retirement allowance becomes effective, and the total amount of the allowance shall be increased by one-twelfth of 2.5 per cent for each full month of service in excess of 20 years of service and prior to the last day of the month in which such member will reach the age of 55; provided, further, that such retirement allowance shall in no case exceed 75 per cent of such regular compensation; provided, further, that for a member who became such a member before April 2, 2012, if such member shall reach the member's fifty-fifth birthday and shall not have completed such 20 years of service, the amount of the member's retirement allowance shall be calculated by subtracting from such normal yearly amount one-twelfth of 3 per cent for each full month of service that the member's service is less than 20 years; and provided, further, that for a member who became such a member on or after April 2, 2012, if such member shall reach the member's fifty-fifth birthday and shall not have completed such 20 years of service, the amount of the member's retirement allowance shall be calculated by subtracting from such normal yearly amount one-twelfth of 2.5 per cent for each full month of service that the member's service is less than 20 years. Any member retired under this subdivision who is a veteran as defined in section 1 shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction of such a year; provided, that the total amount of said additional retirement allowance shall not exceed \$300 in any case.

SECTION 45. 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 and 31 during the leave of absence.

SECTION 46. Section 65D½ of said chapter 32, as so appearing, is hereby amended by inserting after the word "service", in lines 11 and 12, the following words:- , together with buyback interest.

SECTION 47. Section 90C½ of said chapter 32, as so appearing, is hereby amended by striking out, in line 6, the figure "\$10,000" and inserting in place thereof the following figure:— \$15,000.

SECTION 48. Said chapter 32 is hereby further amended by inserting after section 90D the following section:—

Section 90D $\frac{1}{2}$. Any retirement system of a city, town, county, region, district or authority may, upon the majority vote of the board of such system and by the local legislative body, increase the retirement allowance of any member of the retirement system, who has been retired under this chapter or similar provision of earlier law on a superannuation, accidental disability or ordinary disability retirement allowance and who has completed at least 25 years of creditable service, to an amount not to exceed \$15,000. For the purposes of this section, a vote of the legislative body shall take place in the following manner: in a city, by a vote the city council subject to its charter; in a town, by a vote at a town meeting; in a county, by a vote of the county retirement board advisory council; in a region, by a vote of the regional retirement board advisory council; in a district, by a vote of the district members; and for an authority, by a vote of its governing body.

SECTION 49. Section 91 of said chapter 32, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "people", in line 16, the following words:- ; provided, that the position from which the elected official retired was not a public office to which the elected official had been elected by direct vote of the people, unless at least 1 year has passed from the last day the elected official held said public elected office.

SECTION 50. Said section 91 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "terminated" in line 92, the following words:- plus \$15,000; provided however that in the first year immediately following the effective date of retirement, the earnings received by any person when added to any pension or retirement allowance the person is receiving shall not exceed the salary that is being paid for the position from which the person was retired or in which the person's employment was terminated.

SECTION 51. Section 91A of said chapter 32, as so appearing, is hereby amended by inserting after the word "commission", in line 9, the following words:- ; provided, however, that the commission may waive such filing by a member, if said member shall have been retired for more than 20 years, has not reported any earnings for the prior 10 years and signs an affidavit under the pains and penalties of perjury indicating that should the member realize any earned income in the future the member will forthwith notify the commission of that fact and again report under this section.

SECTION 52. Paragraph (c) of section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 32, 36 and 43, the figure "\$12,000" and inserting in place thereof, in each instance, the following figure:- \$13,000.

SECTION 53. Section 19 of chapter 34B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(m) No employee, contractor, vendor or person receiving remuneration, financial benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the retirement board, from a retirement board or from a person doing business with a retirement board shall be eligible to serve on a retirement board; provided however, that an employee of a retirement

board may serve on a retirement board other than the retirement board by which the person is employed; and provided further, that this paragraph shall apply only to individuals who first become members of a retirement board on or after April 2, 2012.

SECTION 54. Section 7 of chapter 150E of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

An employer entering into a collective bargaining agreement with an employee organization shall provide a copy of the agreement to the retirement board to which the employees covered by the agreement are members. All retirement systems shall maintain files of all active collective bargaining agreements which cover the systems members. The retirement board shall review collective bargaining agreements for compliance with chapter 32.

SECTION 55. Notwithstanding any general or special law to the contrary, any member of a retirement system presently receiving a retirement allowance who:

- (a) retired under chapter 32 of the General Laws on or before May 17, 2004;
- (b) elected Option (a) or Option (b) of subdivision (2) of section 12 of said chapter 32; and
- (c) married a person of the same sex on or before May 17, 2005 may change such selection to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date. The surviving spouse of a member that would otherwise meet the requirements of clauses (a) to (c), inclusive, may change the election made by the deceased member to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date.

In paying the retirement allowance under the new election, the board, as defined in section 1 of said chapter 32, shall make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election. The change of election under this section shall be made and received by the applicable board not later than July 1, 2012, and shall be retroactive to the date of retirement. The election to change retirement option under this section shall be in a manner prescribed by the board, as defined in said section 1 of said chapter 32 and said board shall have 180 days after the submission of an application to implement the change.

SECTION 56. There shall be a special commission to study the Massachusetts public employees' pension classification system. The commission shall review and make recommendations for reform regarding the Massachusetts public employees' group classification system, with consideration of the work by the Blue Ribbon Panel on the Massachusetts Public Employees Pension Classification system. The commission shall consist of 13 members: 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the treasurer, or the treasurer's designee; 1 of whom shall be the executive director of the public employee retirement administration commission, or the director's designee; 1 of whom shall be a private citizen, appointed by the governor, who shall serve as chair of the commission and shall not be a member of any of the 105 contributory retirement systems; 3 members of the house of representatives, 1 of whom shall be

appointed by the minority leader; 3 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; 1 of whom shall be selected by the governor from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and 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 April 15, 2012.

SECTION 57. The state treasurer shall investigate and study ways to increase public employee participation in state sponsored deferred compensation plans, including increased outreach and access for new employees. The state treasurer shall file a report with his findings and any legislative recommendations with the house and senate clerks and the house and senate chairs of the joint committee on public service on or before April 30, 2012.

SECTION 58. Notwithstanding any general or special law to the contrary, there shall be a special commission to investigate and study retiree healthcare and other non-pension benefits. The commission 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 commission shall consider and may make recommendations on how best to divide the costs between the commonwealth and employees. The commission shall also study the operation and structure of the group insurance commission or any other aspects of employee healthcare the commission deems appropriate. Upon appropriation of sufficient funds, the commission shall engage professional advisors as needed to accomplish its purposes.

The commission shall consist of 11 members: 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the treasurer, or the treasurer's designee; 1 of whom shall be the executive director of the group insurance commission, or the director's designee; 1 of whom shall be a private citizen, appointed by the governor, who shall serve as chair of the commission and shall not be a member of any of the 105 contributory retirement systems; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 2 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; 1 of whom shall be selected by the governor from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The commission shall file a report of its recommendations and 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 March 1, 2012.

SECTION 59. There shall be a special commission to investigate and study all aspects of the ordinary and accidental disability provisions of the Massachusetts contributory retirement system as well as the provisions of injured on duty benefits and presumptions for public employees contained in the general laws. The commission shall consist of the chairs of the joint committee on public service, who shall co-chair the commission, the chairs of the house and senate committees on ways and means, the secretary of administration and finance, or a designee, the state treasurer, or a designee, executive director of the public employee retirement administration commission, or a designee; the house minority leader or a designee, the senate minority leader or a designee and 3 members to be appointed by the governor, one selected from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 member who shall be a member of the Massachusetts Municipal Association; and 1 member who shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and 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 October 1, 2012.

SECTION 60. (1) Notwithstanding any general or special law to the contrary, any active member of the optional retirement system established under 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 1 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 shall 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 employees' retirement system by enrollment in the optional retirement program shall be conditioned upon the payment, in 1 lump sum or in installments upon such terms as the state retirement board may provide, the larger of (a) 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 (b) an amount equal to all such assets, accrued under the Massachusetts optional retirement program to the state employees' 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 shall, upon the transfer, forfeit all benefits, rights and privileges attributable to employer-funded assets in the optional retirement program. The optional retirement program administrator will take immediate steps to ensure that such employer-funded assets are transmitted to the Pension Reserve Fund as assets of the state employees' retirement system.

(3) Within 180 days of the effective date of this section the state retirement board and the department of higher education shall request of the Internal Revenue Service the necessary letters of determination or ruling on whether this section 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 including, but not limited to, subsection 414(h). The state employees' retirement system shall also request a determination or ruling from the Internal Revenue Service on whether this section 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. Subsections (1), (2) and (4) to (7), inclusive, of this section 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 section will not result in non-compliance of either or both the optional retirement program and the state employees' retirement system with the Internal Revenue Code including, but not limited to, subsection 414(h).

(4) Within 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, inactive members of the optional retirement system who are currently active members of the state retirement system and those members on an excused leave of absence of 2 years or less, of their eligibility for this 1-time transfer opportunity to the state employee retirement system. Eligible employees who choose to transfer to the state employees' retirement system apply for such transfer to the state retirement board within 180 days of notification by the department of higher education of their eligibility for this transfer. Any elections under this section shall apply to current active members of the optional retirement plan, inactive members of the optional retirement system who are currently active members of the state retirement system and those on an approved leave of absence of 2 years or less on the effective date of this section, and shall be for one time. No further changes in participation, either into the state retirement plan or out of the optional retirement program, shall 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 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 program account following the transfer of an employee to the state employees' retirement system and the complete payment for such transfer, as set forth above, shall continue to be held on behalf of the member under the optional retirement program and shall continue to be subject to the terms of the optional retirement program.

(6) If an employee has a residual account remaining in the optional retirement program under paragraph (4), the employee shall continue to be a member of the optional retirement program as long as such employee has an account under such program but shall not be permitted to make further contributions and shall not be eligible for any employer contributions thereunder. The 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 chapter 32 of the General Laws to a member of the optional retirement program 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.

Upon the effective date of this section the public employee retirement administration commission shall perform an actuarial study relative to the potential cost to the commonwealth of implementation of this section and shall submit a report to the joint committee on public service.

SECTION 61. For the purposes of section 26 of chapter 32 of the General Laws, any state police trainee who completes and graduates from the state police training academy on or before June 1, 2012 shall be considered a member in service before April 2, 2012.

SECTION 62. The secretary of administration and finance shall commission a comprehensive, independent analysis of the costs and benefits of further structural reforms to the current pension system that will provide a public benefit while ensuring the ability to attract and retain public employees. 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 maintenance of competitive, quality benefits for public employees; the equitable distribution of benefits to members of the system; and, a reduction in cost and risk to the taxpayers.

The analysis shall include, but not be limited to, a review of costs and public benefits for the current defined benefit plan, the creation of an optional defined contribution plan and an optional hybrid plan, consisting of defined benefit and defined contribution components. The 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 secretary 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 secretary; and (b) acceptable to the state treasurer and the public employee retirement administration commission.

The organization shall provide a preliminary report to the public employee retirement administration commission not 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.

SECTION 63. Notwithstanding any general or special law to the contrary and except as expressly

provided otherwise, sections 13, 16, 17, 20 to 22, inclusive, 26 and 27 shall apply only to members who become members on or after April 2, 2012. Sections 12 and 46 shall apply only to repayments and purchases of creditable service on or after April 2, 2012.

SECTION 64. Sections 5, 8 to 11, inclusive, 14, 15, 19, 23 to 25, inclusive, 28, 32, 35, 39, 43, 44, 47, 48 and 50 shall take effect on April 2, 2012.

SECTION 65. Section 18, 31 and 49 shall apply only to members retiring on or after April 2, 2012.

Approved, November 16, 2011.
