

HOUSE No. 2360

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dorcena Forry, Jay R. Kaufman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Preserve and Protect the Integrity of the State Pension System.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Linda Dorcena Forry	12th Suffolk
Jay R. Kaufman	15th Middlesex
Mary E. Grant	6th Essex
William Lantigua	16th Essex
Sonia Chang-Díaz	Second Suffolk
Frank I. Smizik	15th Norfolk
Cory Atkins	14th Middlesex
Benjamin B. Downing	Berkshire, Hampshire and Franklin
Denis E. Guyer	2nd Berkshire
Christopher J. Donelan	2nd Franklin
John V. Fernandes	10th Worcester
Angelo J. Puppolo, Jr.	12th Hampden
Stephen Kulik	1st Franklin
Sarah K. Peake	4th Barnstable
William N. Brownsberger	24th Middlesex
Harriett L. Stanley	2nd Essex
Stephen L. DiNatale	3rd Worcester
Thomas P. Conroy	13th Middlesex
Allen J. McCarthy	7th Plymouth

John W. Scibak

2nd Hampshire

James Cantwell

4th Plymouth

Steven J. D'Amico

4th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PRESERVE AND PROTECT THE INTEGRITY OF THE STATE 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:

1 SECTION 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition is
2 hereby amended by inserting after the word “forty-five” in line 399, the following words:- and up to and
3 including June 30, 2009.

4 SECTION 2. The first paragraph of said section 1 of said chapter 32, as so appearing, is further amended
5 by inserting after the definition of “Regular compensation” the following :-

6 “Regular compensation” for compensation received during any period subsequent to June 30,
7 2008 shall mean exclusively wages received by an employee for services performed in the course of
8 employment for his employer.

9 “Wages” for purposes of this chapter shall mean the base salary or other base compensation of an
10 employee paid directly to that employee for employment by an employer plus amounts paid as
11 educational incentives, amounts paid for length of service, amounts paid as premiums for shift
12 differentials, amounts paid as cost-of-living bonuses or cost-of-living pay adjustments, and as contained
13 in any applicable collective bargaining agreement or individual contract for employment.

14 All other forms of compensation not in conformity with the foregoing, including but not limited
15 to overtime, amounts paid for additional services or for work beyond the normal work year, commissions,
16 bonuses other than cost-of-living bonuses, amounts derived from any salary enhancements or salary
17 augmentation plans of any kind, temporary or ad hoc payments or increases to base salary, indirect, in-
18 kind or any payments for such items as housing, lodging, travel, annuities or other retirement benefits,
19 welfare benefits, workers’ compensation benefits, job-related expense payments, automobile usage,
20 insurance premiums, dependent care assistance, tuition or any other fringe benefits, payments in kind and
21 all payments in any medium other than cash received by an individual from his employing unit for
22 services rendered to such employing unit, shall not, regardless of federal taxability, be considered regular
23 compensation for purposes of this chapter. Wages shall also not include payment in lieu of or for unused
24 vacation or sick leave, or the payment for termination, severance, dismissal, or any amounts paid as

25 premiums for working holidays, except as authorized by law, any amounts paid as early retirement
26 incentives or any other payment made as a result of the employer having knowledge of the member's
27 retirement.

28 SECTION 3. Paragraph(a) of subsection (1) of section 4 of said chapter 32, as so appearing, is hereby
29 amended by striking out, in lines 5 through 7, the words ""that he shall be credited with a year of
30 creditable service for each calendar year during which he served as an elected official and provided
31 further".

32 SECTION 4. Section 5 if said chapter 32, as so appearing, is hereby amended by adding the following
33 subsection:

34 (5) In the event that a member's retirement allowance is based on the average rate of regular
35 compensation in the last 3 years of creditable service, the average rate of regular compensation shall be
36 the lesser of the average rate of regular compensation on the regular compensation actually received or
37 the average rate of regular compensation determined as though the member's regular compensation in the
38 second year prior to retirement exceeded that of the third year prior to retirement by 10 per cent and as
39 though the member's regular compensation in the final year prior to retirement exceeded the member's
40 regular compensation so determined for the second year prior to retirement by 10 per cent.

41 If, as a result of the provisions of this subsection, a member's retirement allowance is not based
42 on actual regular compensation received, the system shall refund to the member any contributions made
43 in excess of the amounts that would have been made based on the regular compensation used in
44 determining the average rate of regular compensation, plus the actuarial assumed rate of interest on said
45 contributions..

46 SECTION 5. Subsection 2 of section 6 of said chapter 32, as so appearing, is hereby amended
47 by striking out, in line 66 the word "and " and inserting in place thereof the word:- or

48 SECTION 6. Section 11 of said chapter 32, as so appearing, is hereby amended by striking out, in line
49 13, the word "zero" and inserting in place thereof the following words:- one-half the actuarial assumed
50 interest rate of the member's retirement system.

51 SECTION 7. Said section 11 of said chapter 32, as so appearing, is hereby further amended by striking
52 out, in line 18, the words "fifty percent of the rate of regular interest otherwise payable" and inserting in
53 place thereof the following words:- one-half the actuarial assumed interest rate of the member's
54 retirement system.

55 SECTION 8. Paragraph (b1/2) of subsection (1) of section 22 of said chapter 32, as so
56 appearing, is hereby amended by striking out the sixth sentence in its entirety, and inserting in
57 place thereof, the following sentence:-For any member of any system accepting the provisions of
58 this paragraph who entered the service of the commonwealth or a political subdivision thereof
59 on or after January first, nineteen hundred and seventy-nine, the treasurer or other disbursing
60 officer in charge of payroll in any governmental unit to which a system pertains, shall withhold
61 on each pay day, in addition to the amounts withheld pursuant to paragraph (b) an additional 2
62 per cent of each member's regular compensation over \$50,000.

63 SECTION 9. The provisions of section 3 shall apply to an individual who becomes a member
64 after July 1, 2011.

65 SECTION 10. The provisions of section 8 shall expire on June 30, 2013.

66 Section 11. . Paragraph (a) of subsection 2 of section 10 of chapter 32 of the General Laws, as appearing
67 in the 2006 Official Edition, is hereby amended by striking out, in lines 50 and 51, the words “fails of
68 nomination or re-election, or “.

69 SECTION 12. Said paragraph (a) of said subsection (2) of said section 10 of said chapter 32, as so
70 appearing, is further amended, by striking out lines 73-77, and inserting in place thereof the following
71 words:-

72 the following circumstances applies: (1) that the employee has failed of re-appointment, (2) that
73 the employee’s office or position has been abolished, or (3) that the employee has been removed or
74 discharged from his position without moral turpitude on his part.