

***SENATE . . . . . No. 02018***

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven.  
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SECTION 1. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2008 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. Clause (19) of subsection (b) of section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by adding the following words:- ; provided, however, that the procurements shall take place under section 23B of chapter 32.

SECTION 3A. The definition of “wages”, in section 1 of chapter 32 of the General Laws, as appearing in section 3 of chapter 21 of the acts of 2009, is hereby amended by inserting after the word "firefighters", the following words: - “, correctional officers”.

SECTION 4. Paragraph (b) of subdivision (8) of section 3 of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the third sentence the following 2 sentences:- 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, within 1 year from the date of reinstatement or re-entry or within 1 year after January 1, 2012, whichever is later, either:

(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into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest; or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into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest, shall pay actuarial assumed interest instead of buyback interest on all make-up payments to be entitled to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 5. Subdivision (1) of section 4 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (g<sup>1/2</sup>) the following paragraph:-

(g<sup>3/4</sup>) 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 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 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. Said increase to a retiree's pension shall commence on January 1, 2012.

SECTION 6. Section 5 of said chapter 32, as so appearing, is hereby amended by striking out, in line 3, the words "age fifty-five" and inserting in place thereof the following words:- age 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 January 1, 2012 who has attained age 60.

SECTION 7. 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 paragraph (a) of section 105.

SECTION 8. Paragraph (a) of subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "retirement", in line 98, the following words:-; provided, however that for a member who became a member on or after January 1, 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 9. 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 3 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 January 1, 2012, who has served in more than 1 group may elect to receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that the member rendered in each group; further, the retirement allowance for members who became members on or after January 1, 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 public employee retirement administration commission.

SECTION 10. The caption in said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by striking out the words, "Creditable Service" and inserting in place thereof the following words:- Creditable Service for individuals who became members before January 1, 2012.

SECTION 11. Said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by inserting after the table the following tables and text:-

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 January 1, 2012

Per Cent	Group 1	Group 2	Group 4
2.50	67 or older	62 or older	57 or older
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 January 1, 2012 and with at least 35 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

If the retirement age for receiving Social Security retirement benefits is adjusted under federal law, the secretary of administration and finance, in consultation with the commission, shall evaluate the percentages in the above table and make a recommendation to the legislature as to whether the percentages should be adjusted by legislative action.

SECTION 12. 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 January 1, 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 13. Said subdivision (2) of said section 5 of said chapter 32, as amended by section 7 of chapter 21 of the acts of 2009, is hereby further amended by inserting after paragraph (e) 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 14. Paragraph (b) of subdivision (3) of said section 5 of said chapter 32, as appearing in the 2008 Official Edition, 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 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 3-year or 5-year period, anything in such sections to the contrary notwithstanding.

SECTION 15. 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 any employee who becomes a member on or after January 1, 2012, and with at least 35 years of creditable service, the on-going rate of contribution under this paragraph shall be 6 per cent.

SECTION 16. 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 “24 years of creditable service”, in line 288, 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 17. 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 January 1, 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 such member's last 5 years of creditable service preceding retirement, whichever is greater.

SECTION 18. 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 January 1, 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 January 1, 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 January 1, 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 January 1, 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 19. 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 January 1, 2012.

SECTION 20. 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 January 1, 2012.

SECTION 21. Section 10 of said chapter 32, as most recently amended by section 13 of chapter 21 of the acts of 2009, is hereby further amended by inserting after subdivision (2) the following subdivision:-

(2a) Notwithstanding subdivisions (1) or (2) any member classified in Group 1, Group 2 or Group 4, who became a member on or after January 1, 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 22. Subdivision (3) of said section 10 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by inserting after the figure (2) the following words:- or (2a).

SECTION 23. Subdivision (2) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the ninth 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 January 1, 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 23A. Said section 12 of said chapter 32, as so appearing, is hereby 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 23B. Said section 12 of said chapter 32, as so appearing, is hereby amended by inserting after the seventeenth paragraph the following paragraph:-

Beginning July 1, 2011, 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, local legislative body shall mean a town meeting for a town system, the city council subject to its charter for a city system, the county retirement board advisory council for a county system, the regional retirement board advisory council for a regional system, the district members for a district system and the governing body of an authority for an authority system. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commission.

SECTION 24. Section 15 of said chapter 32, as amended by section 53 of chapter 25 of the acts of 2009, is hereby further amended by adding the following paragraph:-

(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 25. Paragraph (b) of subdivision (1) of section 16 of said chapter 32, as appearing in the 2008 Official Edition, 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 January 1, 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 January 1, 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 26. 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 January 1, 2012.

SECTION 27. Subdivision (6) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

The elected and appointed members of a city, town, county, regional, district or authority retirement board upon acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year nor exceed \$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 public employee retirement administration 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 28. Said section 20 of said chapter 32, as so appearing, is hereby amended by adding the following subdivision:-

(7) 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 public employee retirement 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 29. Said chapter 32 is hereby amended by inserting after section 20B the following section:-

Section 20C. (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 30. Paragraph (a) of subsection 1 of section 21 of said chapter 32, as appearing in the 2008 Official Edition, 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 systems members and shall make the agreements available to the commission for review at such time as the commission shall specify.

SECTION 31. Said chapter 32 is hereby amended by inserting after section 21 the following section:-

Section 21A. (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 32. Paragraph (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by striking out the words “and (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.” and inserting in place thereof the following 3 clauses:-

(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 4 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 January 1, 2012 and who has least 35 years of creditable service; and

(viii) withhold on each pay day 6 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 January 1, 2012 and who has least 35 years of creditable service.

SECTION 32A. The last paragraph of subdivision (1) of section 22C of said chapter 32, as appearing in section 46 of chapter 68 of the acts of 2011, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Notwithstanding any provision of this subdivision to the contrary, any adjustments to these amounts based on the next triennial funding schedule shall be limited to increases in the schedule amounts for each of the specified years; provided that annual appropriations or transfers to the commonwealth's pension liability fund made starting in fiscal year 2018 shall not be less than those made in fiscal year 2017.

SECTION 32B. Section 22C of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by adding the following subdivision:-

(5) Any surplus, which is defined as any monies in the annuity savings fund of any system, the pension fund of any system, in the pension reserve fund of any system in the PRIT fund, in the expense fund of any system or in the special fund for military service, whether from the regular deductions of members, amounts appropriated by any governmental unit, or interest or profits earned by monies in all funds, in excess of the requirements to fully fund the system, shall be held in contractual trust for the exclusive benefit of the members of the system.

SECTION 32C. Section 22D of chapter 32 of the General Laws, as most recently amended by section 17 of chapter 188 of the acts of 2010, is hereby further amended by adding the following subdivision:-

(12) Any surplus, which is defined as any monies in the annuity savings fund of any system, in the pension fund of any system, in the pension reserve fund of any system, in the expense fund of any system or in the special fund for military service, whether from the regular deductions of members, amounts appropriated by any governmental unit, or interest or profits earned by monies in all funds, in excess of the requirements to fully fund the system, shall be held in contractual trust for the exclusive benefit of the members of the system.

SECTION 33. Subdivision (2) of section 23 of said chapter 32, as appearing in the 2008 Official Edition, 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 as follows:-

(i) under the standards in subdivision (3), provided that:

(A) no investment of funds shall be made in stocks, securities or other obligations of a company which derives more than 15 per cent of its revenues from the sale of tobacco products;

(B) in investing funds the board shall employ an investment manager or investment managers who shall invest the funds of the system; and

(C) no funds shall be invested directly in mortgages or collateral loans.

(ii) No investment of funds shall take place until the board has received from the commission an acknowledgement of receipt of the following:

(A) certification that, in making the selection, the board has complied with the process established in section 23B;

(B) a copy of the vendor certification required under section 23B;

(C) copies of disclosure forms submitted by the selected vendor;

(D) a certification that the investment is not a prohibited investment as set forth in regulations of the commission;

(E) 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.

(iii) Prior to the retention of an investment consultant the board shall have received from the commission an acknowledgement of receipt of the following:-

(A) certification that, in making the selection, the board has complied with the process established in section 23B;

(B) copy of the vendor certification required under section 23B;

(C) copies of disclosure forms submitted by the selected consultant; and

(D) copy of the board certification required under section 23B.

SECTION 34. 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 regulations promulgated under this chapter.

SECTION 35. Said chapter 32 is hereby 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 contractor's 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 contractor's 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 36. Subdivision (3) of section 26 of said chapter 32, as appearing in the 2008 Official Edition, 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 January 1, 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 January 1, 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 January 1, 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 January 1, 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; provided, further, that 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 January 1, 2012 for purposes of this section. 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 36A. Section 28K of said chapter 32, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

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

SECTION 37. Section 65D<sup>1</sup>/<sub>2</sub> of said chapter 32, as so appearing, is hereby amended by inserting after the word "service", in line 12, the following words:- , together with buyback interest.

SECTION 38. Subsection (a) of section 91 of said chapter 32, as so appearing, is hereby amended, in line 85, by inserting after the words "for service in a public office to which he has thereafter been elected by direct vote of the people" the following words:- ; provided the position from which he retired was not a public office to which he had been elected by direct vote of the people, unless at least 1 year has passed from the last day he held such public elected office,.

SECTION 38A. Subsection (b) of said section 91 of said chapter 32, as so appearing, is hereby amended by adding the following words:- unless such earnings are consistent with public employee retirement administration commission regulations.

SECTION 39. 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 39A. Paragraph (a) of section 103 of said chapter 32, as so appearing, is hereby amended by striking out, in line 14, the figure "\$12,000" and inserting in place thereof the following figure:- \$13,000.

SECTION 40. Said chapter 32 of the General Laws is hereby further amended by adding the following 2 sections:-

Section 106. For any proposed legislation that provides specific retirement benefits to named individuals that are beyond the benefits available under the General Laws, the public employee retirement administration commission shall submit to the joint committee on public service an analysis of the cost of the legislation and the basis for granting the exemption, upon request by the joint committee on public service.

Section 107. Notwithstanding any general or special law to the contrary the secretary of administration and finance, in consultation with the commission, shall evaluate the minimum age of retirement for new employees in Groups 1 and 2 every 5 years and make recommendations to the legislature about any recommended legislation.

SECTION 41. The first sentence of subsection (b) of section 19 of chapter 34B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the figure "32", in line 14, the following words:- ; provided, however, that 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 further, 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 January 1, 2012.

SECTION 42. Section 7 of chapter 150E of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(e) 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 43. 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) who 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 44. 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 44A. 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 44B. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall develop regulations within 150 days of the effective date of this act to determine maximum earnings in the service of the commonwealth, county, city, town, district, or authority for persons retired and receiving a pension or retirement allowance from the commonwealth, county, city, town, district or authority under subsection (b) of section 91 of chapter 32 of the General Laws; provided, however that the regulations shall not allow earnings, which when added to any pension or retirement allowance the member is receiving would exceed the salary that is being paid for the position from which the member was retired plus \$15,000; provided, further that in developing these regulations, the commission shall only permit such increase in earnings for bona fide changes in position duties and responsibilities, as determined by the commission; and provided, further that no person shall receive earnings which, when added to any pension or retirement allowance the employee is receiving would exceed the salary being paid for the position from which the employee retired under said chapter 32 of the General Laws until 180 days after the effective date of this act.

SECTION 44C. Notwithstanding any general or special law to the contrary, any active member of the optional retirement program established under subsection (3) of section 40 of chapter 15A of the General Laws, or optional retirement program 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 the active member was an active participant of the optional retirement program. Any such employee choosing to transfer shall also be allowed creditable service for any years of participation, or portions of years, in the state employees' retirement system immediately prior to the employee's enrollment in the optional retirement program.

(i) Eligibility for creditable service for time spent in the optional retirement program and service relinquished in the state retirement system by enrollment in the optional retirement program shall be conditioned upon the payment, in 1 lump sum or in

installments upon such terms as the state retirement board may provide, of an amount equal to the contributions such employee would have otherwise paid into the state employees' retirement system had the employee been a member, plus actuarial-assumed interest for the years spent as an actively contributing member in the optional retirement program, plus all employer contributions to the employee's optional retirement program account. Any employee in the optional retirement program who elects to participate in the state employees' retirement system shall transfer all assets, or pay an amount equal to all such assets, accrued under the optional retirement program to the state employees' retirement system, providing that such assets shall be credited toward the purchase of creditable service.

(ii) Within 30 days of the effective date of this act, the department of higher education shall notify active members of the optional retirement program, or 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 employees' retirement system. Eligible employees who choose to transfer to the state employees' retirement system shall apply for such transfer to the state retirement board within 180 days of notification by the department of their eligibility for this transfer. Any elections under this section shall apply to current and future active members of the optional retirement program and those on an approved leave of absence of 2 years or less on the effective date of this section and shall be for 1 time only, provided, however, that any such current or future faculty member who is not tenured on the effective date of this section, may postpone election to participate in the state employees' retirement system until acquisition of tenure, with timelines under this section to commence from the date of such member's tenure acquisition. No further changes in participation, either into the state employees' retirement system or out of the optional retirement program shall be permitted.

(iii) Within 30 days of application for transfer to the state employees' retirement system, the employee, subject to the rules and regulations of the state board of retirement, shall be notified by the state retirement board of the employee's eligibility for transfer and the cost of such transfer. If eligible, such employee shall have 180 days from notification to: (1) transfer all assets, or an amount equal to all such assets, held in the optional retirement program; and (2) pay in 1 lump sum or enter into an installment agreement with the state retirement board to pay any amount owed for purchase of creditable service not covered by the transfer of assets. Any money remaining in an optional retirement program account following the transfer of a member to the state employees' retirement system and the complete payment for such transfer, as set forth above, shall belong to the transferred employee and no longer be a part of the optional retirement program, providing that remaining funds shall continue to operate as pre-tax retirement account established between the employee and the former plan provider and subject to the rules and regulations thereof.



(iv) Employees who elect to transfer to the state employees' retirement system shall no longer be members active or otherwise in the optional retirement system, but shall be required to make contributions to the state employees' retirement system at the same rate the member contributed to the optional retirement program. 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 continue to be tax-qualified plans in accordance with the Internal Revenue Code of 1986, as amended.

SECTION 44D. The human resources division shall conduct an investigation and study on the recruitment and retention of public sector employees by the commonwealth and cities and towns in the commonwealth. The chief human resources officer of the human resources division or a designee shall lead the investigation. The governor shall appoint 4 persons to serve as an advisory committee to the human resources division in its study, 3 of whom shall be human resources officers in cities or towns in the commonwealth and 1 of whom shall be an expert in the labor market of the commonwealth. The study shall concentrate on the attractiveness and competitiveness of public sector employment and shall make recommendations to improve the attractiveness and competitiveness of such employment. The human resources division shall file a report of its findings with the governor and the clerks of the house of representatives and the senate not later than June 30, 2012.

SECTION 45. Notwithstanding any general or special law to the contrary and except as expressly provided otherwise, sections 8, 11, 12, 15 to 17, inclusive, 21, 22 and 32 shall apply only to members who become members on or after January 1, 2012. Sections 7 and 37 shall apply only to repayments and purchases of creditable service on or after January 1, 2012.

SECTION 46. Sections 4, 5, 6, 9, 10, 12, 14, 18 to 20, inclusive, 23, 25, 28 and 36 shall take effect on January 1, 2012.

SECTION 47. Section 13, 24 and 38 shall apply only to members retiring on or after January 1, 2012.