

SENATE No. 1022

By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 1022) of Alan D. Sisitsky, Anna P. Buckley, John W. Olver and members of the House of Representatives for legislation relative to the establishment of the Massachusetts pension and employee benefit plan commission. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

**AN ACT RELATIVE TO THE ESTABLISHMENT OF THE MASSACHUSETTS
PENSION AND EMPLOYEE BENEFIT PLAN COMMISSION.**

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. There is hereby established in the executive
2 branch of the state government an independent agency to be
3 known as the Massachusetts Pension and Employee Benefit
4 Plan Commission. It shall be the duty of the commission to
5 promote the establishment, extension, and improvement of
6 pension, profit-sharing retirement and other employee benefits
7 for employees of any partnership or company doing business in
8 Massachusetts.

1 SECTION 2. *Vesting of Benefits*

2 A pension or profit-sharing retirement plan covered by this
3 act shall provide, under the terms of the plan in respect of
4 service on or after the effective date of this act, or by amend-
5 ment to the terms of the plan or by the creation of a new plan
6 on or after such date in respect of service on or after the
7 effective date of such amendment or new plan, that

8 1. A member of the plan who has been in the service of the
9 employer, or has been a member of the plan, for a continuous
10 period of six years is entitled upon termination of his employ-
11 ment or membership in the plan, prior to attaining retirement
12 age (i) in the case of a pension plan to a deferred life annuity
13 commencing at his normal retirement age and (ii) in the case

14 of a profit-sharing retirement plan to a nonforfeitable right to
15 his interest in such plan, equal to ten per centum of full pension
16 benefits as provided by the plan in respect of such interest,
17 respectively, and such entitlement shall increase by at least ten
18 per centum per year of continuous service thereafter until the
19 completion of fifteen years of continuous service, after which
20 such member shall be entitled upon termination of employ-
21 ment or membership in the plan prior to attaining retirement
22 age to a deferred life annuity commencing at his normal retire-
23 ment age equal to the full pension benefits as provided by the
24 plan in respect to such service, or to the full amount of such
25 interest in the profit-sharing retirement plan, respectively.

1 SECTION 3. *Time of Vesting*

2 An employee shall be deemed a member of a pension plan
3 beginning on the day when contributions are first made to the
4 plan or to its fund with respect to the employee's service to
5 the employer, but in no event shall any pension plan provide as
6 a condition of membership or eligibility to participate in such
7 plan, a period of service longer than six months.

1 SECTION 4. *Funding of Plans by the Employer*

2 A pension plan under this act shall provide for funding that
3 is adequate to provide for payments of all pension benefits,
4 deferred life annuities and other benefits required to be paid
5 under the terms of this plan.

6 Provisions for funding shall set forth the obligation of the
7 employer to contribute both in respect of the current service
8 cost of the plan and in respect of any initial unfunded liability
9 and experience deficiency. The contribution of the employer,
10 including any contributions made by employees shall consist of
11 the payment currently into the plan or fund of —

12 1. all current service costs;

13 2. where the plan has an initial unfunded liability, special
14 payments consisting of equal annual amounts sufficient to
15 liquidate such initial unfunded liability over a term not exceed-
16 ing,

17 (A) in the case of an initial unfunded liability existing on

18 the effective date of this act, in any plan established before
19 that date, forty years from that date, and

20 (B) in the case of an initial unfunded liability resulting
21 from an amendment to a pension plan made on or after the
22 effective date of this act, or resulting from the establishment
23 of a pension plan on or after the effective date of this act,
24 thirty years from the date of such amendment or establish-
25 ment; and

26 (C) where the plan has an experience deficiency, special
27 payments consisting of equal annual amounts sufficient to
28 liquidate such experience deficiency over a period not exceed-
29 ing five years from the date on which the experience deficiency
30 was determined: Provided, that the commission may suspend
31 the special payments requirements or extend the five-year
32 period provided in this subparagraph in cases involving busi-
33 ness necessity or substantial risk to the continuation of the
34 employing enterprise.

35 Notwithstanding the provisions of this subsection, (i) the
36 liquidation of initial unfunded liabilities or experience deficien-
37 cies may be accelerated at any time, and (ii) where an insured
38 pension plan established before the effective date of this act is
39 funded by level annual premiums to retirement age for each
40 individual member and benefits are guaranteed by the insur-
41 ance company to the extent that premiums, it shall be deemed
42 to meet the requirements of this act.

1 SECTION 5. *Payment to Survivors*

2 Where in accordance with the terms of a pension or profit-
3 sharing retirement plan an employee or former employee has
4 designated a person or persons to receive a benefit payable
5 under the plan in the event of the employee's death.

6 1. The employer's liability to provide the benefit shall be
7 discharged upon payment to such person or persons of the
8 amount of the benefit; and

9 2. such person or persons may upon death of the employee
10 or former employee enforce payment of the benefit, but the
11 employer shall be entitled to set up any defense that he could
12 have set up against the employee or former employee. As used

13 in this subsection, the term employer includes a trustee or
14 insurer under a pension or profit-sharing retirement plan.

1 SECTION 6. *General Requirements*

2 (A) Every pension plan and, to the extent required by regu-
3 lations issued by the commission, every profit-sharing retire-
4 ment plan shall define the benefits provided by such plan, the
5 method of determination and payment of benefits, conditions
6 for qualification for membership in the plan and the financial
7 arrangements made to insure provisional or full funding of
8 benefits under the plan. Each such plan shall provide for the
9 furnishing of a written explanation to each member of the plan
10 of the terms and conditions of the plan and amendments
11 thereto applicable to him, together with an explanation of the
12 rights and duties of the employee with reference to the bene-
13 fits available to him under the terms of the plan and such
14 other information as may be required by regulations of the
15 Commission.

16 B) The commission, shall by regulation, require each plan to
17 furnish each participant, upon termination of service with a
18 vested right to a deferred life annuity, pension, or other vested
19 interest, with a certificate setting forth the benefits to which
20 he is entitled, including but not limited to the name and
21 location of the entity responsible for payment, the amount of
22 benefits, and the date when payment shall begin, as such
23 regulations shall specify. A copy of each such certificate shall
24 be filed with the Commission.

1 SECTION 7. *Pension Reinsurance*

2 There is hereby established a program known as the Massa-
3 chusetts Pension Reinsurance Program which shall be adminis-
4 tered by, or under the direction and control of, the Commis-
5 sion.

6 The reinsurance program shall insure beneficiaries of a rein-
7 sured pension plan against loss of nonforfeitable benefits to
8 which they are entitled under such pension plan arising from
9 substantial cessation of one or more of the operations carried
10 on by the contributing employer in one or more facilities of
11 such employer before such plan has been fully funded.