

# SENATE . . . . No. 531

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[Senate, No. 531. — Substituted by amendment (Whittier) for House Bill No. 1677, amended.]

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## The Commonwealth of Massachusetts

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

AN ACT TO MEET CERTAIN CONTINGENCIES ARISING IN CONNECTION WITH THE SERVICE OF PUBLIC OFFICERS AND EMPLOYEES AND CERTAIN OTHER PERSONS IN THE CLASSIFIED CIVIL SERVICE OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS DURING THE EXISTING STATE OF WAR.

1    *Whereas*, The deferred operation of this act would  
2 tend to defeat its purpose, which in part is to protect  
3 the rights of certain persons in the classified civil  
4 service of the United States and the commonwealth  
5 of Massachusetts during the existing state of war,  
6 whose employment in the service of the division of  
7 employment security of this commonwealth was  
8 terminated by reason of executive order number 8990,  
9 December twenty-third, nineteen hundred and forty-  
10 one, of the President of the United States, and to  
11 facilitate their reinstatement in their former offices  
12 or positions in the official service of the common-  
13 wealth, therefore it is hereby declared to be an emer-  
14 gency law, necessary for the preservation of the public  
15 convenience.

*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. (a) All employees, except as other-  
2 wise provided in this section, in the division of em-  
3 ployment security who had been appointed on a  
4 permanent basis, including employees who had not  
5 completed their probationary period, and whose  
6 employment in the service of the commonwealth  
7 was terminated on December thirty-first, nineteen  
8 hundred and forty-one, by reason of executive order  
9 number 8990, issued by the President of the United  
10 States on December twenty-third, nineteen hundred  
11 and forty-one, and who, for the purpose of service  
12 during the existing state of war, were inducted into  
13 the United States employment service, shall be  
14 reinstated in the division of employment security  
15 or its successor providing the offices or positions  
16 formerly held by them are reestablished in the  
17 division of employment security or its successor.  
18 Such reinstatement shall be in accordance with the  
19 civil service laws and rules of the commonwealth  
20 and shall confer upon the employees the full promo-  
21 tional privileges and seniority rights which would  
22 have accrued to them under said laws and rules if  
23 they had remained in the employ of said division  
24 of employment security or its successor.

25 (b) In the event that the offices or positions  
26 formerly held by them in the division of employ-  
27 ment security are not reestablished in said division  
28 or its successor, they may, upon request of the  
29 appointing authority and the approval of the director  
30 of civil service, be reemployed in similar positions  
31 in the division of employment security or its suc-

32 cessor or in any other department of the common-  
33 wealth. If such appointments are made, their  
34 seniority shall be determined in accordance with the  
35 civil service laws and rules of the commonwealth.

36 (c) In the event that there are no offices or posi-  
37 tions vacant in the division of employment security  
38 or its successor or in any other department, board  
39 or commission of the commonwealth at the time of  
40 the termination of their employment in the United  
41 States employment service or its successor, their  
42 names shall be placed on a special list in accordance  
43 with the provisions of the civil service laws and  
44 rules of the commonwealth.

45 (d) Paragraphs (a), (b) and (c) shall apply to  
46 employees who have served in the United States  
47 employment service or its successor continuously  
48 since their induction under said executive order  
49 number 8990, or whose services have been terminated  
50 without fault or delinquency on their part, or who  
51 have terminated their services with the United  
52 States employment service or its successor for the  
53 express purpose of accepting an offer of reinstate-  
54 ment or reemployment in the division of employ-  
55 ment security, or who were ordered or transferred  
56 without their consent to some other position in the  
57 United States civil service from the United States  
58 employment service or its successor after they were  
59 inducted into the United States employment service  
60 by said executive order number 8990.

61 (e) All persons referred to in paragraphs (a), (b)  
62 (c) and (d) shall be entitled to all rights and priv-  
63 ileges provided by chapter seven hundred and  
64 eight of the acts of nineteen hundred and forty-one;  
65 provided, that they would have been subject to

66 the provisions of said chapter seven hundred and  
67 eight had they remained in the service of the division  
68 of employment security or its successor; and pro-  
69 vided, further, that the same or similar positions  
70 are reestablished in the division of employment  
71 security or its successor or exist in some other de-  
72 partment, board or commission of the common-  
73 wealth.

74 (f) An employee, as referred to in paragraph  
75 (a), who is transferred with his consent to some  
76 other position in the United States civil service from  
77 the United States employment service or its suc-  
78 cessor after he was inducted into the United States  
79 employment service by said executive order number  
80 8990 shall, at the time of termination of his em-  
81 ployment in the United States civil service, have  
82 his name placed on a special list in accordance  
83 with the provisions of the civil service laws and  
84 rules of the commonwealth; provided, that such  
85 termination is without fault or delinquency on his  
86 part; and provided, further, that such employee  
87 makes application for the placement of his name  
88 on such special list within sixty days after the  
89 termination of his employment in such other position  
90 in the United States civil service.

91 (g) The director of civil service shall for the  
92 purpose of this section make all determinations  
93 as to whether an employee's services were ter-  
94 minated without fault or delinquency on his part  
95 or whether or not a transfer has been with his consent  
96 or without his consent.

1 SECTION 2. Whenever a person is certified for ap-  
2 pointment to the United States employment service

3 or its successor, in accordance with the civil service  
4 laws and rules of the commonwealth, for the dura-  
5 tion of the war, and such person has served a pro-  
6 bationary period, and his employment is terminated  
7 without fault or delinquency of his own, his name  
8 shall be placed upon a special list in accordance with  
9 the civil service laws and rules of the commonwealth.  
10 Such person, upon the request of the appointing au-  
11 thority and with the approval of the director of civil  
12 service, may be appointed to the same or similar  
13 position in the classified service. Any rights, if he  
14 is so appointed, that he would be entitled to under  
15 the civil service laws and rules of the commonwealth  
16 if he had been appointed in the first instance to said  
17 division of employment security rather than to the  
18 United States employment service, shall be credited  
19 or available to him from the date of his appointment  
20 to said United States employment service during the  
21 existing state of war. If he is appointed to any other  
22 department, his seniority shall be determined in ac-  
23 cordance with the civil service laws and rules of the  
24 commonwealth.

1 SECTION 3. (a) Any person referred to in section  
2 one shall, when reinstated, appointed or re-employed  
3 in his former position or in a similar position, as pro-  
4 vided by this act, be restored to full status under the  
5 contributory retirement system or any other pension  
6 or retirement law under which he had actual or in-  
7 choate rights at the time of the termination of his  
8 employment in the service of said division of em-  
9 ployment security, and shall receive credit for his  
10 full service while he was a member of the federal

11 and state retirement systems if his accumulated de-  
12 ductions in the state retirement system have not  
13 been withdrawn, or if he pays into the annuity sav-  
14 ings fund of said state retirement system, as pro-  
15 vided by chapter thirty-two of the General Laws,  
16 the full amount withdrawn by him upon the termi-  
17 nation of his employment in the service of said di-  
18 vision of employment security, and in either case  
19 an additional amount equal to the payments, with  
20 regular interest, which he would have contributed  
21 if he had remained a member of said state retirement  
22 system.

23 (b) Any person referred to in section two shall,  
24 when appointed to a state department, commission  
25 or board, receive credit for his full service while he  
26 was a member of the federal retirement system, if  
27 he pays into the annuity savings fund of the state  
28 retirement system, as provided by chapter thirty-  
29 two of the General Laws, an amount equal to the  
30 payments, with regular interest, which he would have  
31 contributed if he had been appointed in the first in-  
32 stance to the state service rather than to the United  
33 States employment service or its successor.

1 SECTION 4. Any person who returns or is re-  
2 stored to service in an office or position in the serv-  
3 ice of said division of employment security or its  
4 successor after having terminated his service with  
5 the United States employment service or its suc-  
6 cessor, shall be entitled to all seniority rights to which  
7 he would have been entitled if his service with said  
8 division of employment security had not been ter-  
9 minated, and any such person whose salary is fixed  
10 under a classified compensation plan shall be eligible

11 to a salary rate which includes accrued step-rate  
12 increments to which he would have been eligible  
13 except for his absence from the service of said divi-  
14 sion of employment security.

1 SECTION 5. Service with the United States em-  
2 ployment service or its successor, referred to in this  
3 act, shall, except as otherwise provided herein, mean  
4 such service occurring on and after January first,  
5 nineteen hundred and forty-two, and prior to the  
6 date on which said service of such individuals has  
7 terminated.

