

# SENATE . . . . No. 448

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## The Commonwealth of Massachusetts

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SENATE, April 7, 1938.

The committee on Pensions, to whom was referred the petition (accompanied by bill, House, No. 666) of Frank M. Britt relative to membership in and to benefits payable under contributory retirement systems for cities and towns; and the petition (accompanied by bill, House, No. 966) of James E. Pendergast and others for certain amendments of the law relative to retirement systems in cities and towns and making other changes in the laws relative to retirement systems; report the accompanying bill (Senate, No. 448).

For the committee,

MICHAEL H. SELZO.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT AMENDING THE LAWS RELATIVE TO RETIREMENT SYSTEMS IN CITIES AND TOWNS AND MAKING OTHER CHANGES IN THE LAWS RELATIVE TO RETIREMENT SYSTEMS.

1    *Whereas*, The deferred operation of this act would  
2 tend to defeat its purpose, therefore it is hereby  
3 declared to be an emergency law, necessary for the  
4 immediate preservation of the public safety.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1    SECTION 1. Section twenty-seven of chapter thirty-  
2 two of the General Laws, as amended by section  
3 twelve of chapter three hundred and thirty-six of  
4 the acts of nineteen hundred and thirty-seven, is  
5 hereby further amended by striking out subdivision  
6 (1) (a), as appearing in section one of chapter three  
7 hundred and eighteen of the acts of nineteen hundred  
8 and thirty-six, and inserting in place thereof the  
9 following: —

10    (a) Except as otherwise provided in paragraphs (b)  
11 and (d) of this subdivision, every person who, while  
12 under age fifty-five, becomes an employee of the city  
13 or town after the date on which the system becomes  
14 operative therein may by written application to the

15 board become a member of the system as of the date  
16 of the filing of such application, or, if such applica-  
17 tion is not filed before the date of completion of  
18 ninety days of service, shall become a member of  
19 the system as of that date.

1 SECTION 2. Said section twenty-seven is hereby  
2 further amended by striking out the last sentence of  
3 subdivision (1) (*b*), as so amended, and inserting in  
4 place thereof the following new sentence:—

5 All former employees of the city or town not in its  
6 employ upon the date on which the system becomes  
7 operative therein but re-entering the service thereof  
8 within five years from such date and while under the  
9 age of sixty may become members of the system  
10 upon their own application, and disability benefi-  
11 aries restored to active service to whom the provisions  
12 of paragraph (3) of said section thirty-one A apply  
13 shall forthwith become members of the system.

1 SECTION 3. Said section twenty-seven is hereby  
2 further amended by striking out the last sentence of  
3 subdivision (1) (*d*), as so amended, and inserting in  
4 place thereof the following new sentence:—

5 Subject to paragraph (*f*), any person not an em-  
6 ployee of the city or town who, after the date on  
7 which the system becomes operative therein, is elected  
8 by popular election to a municipal office in such city  
9 or town by written application to the board may, if  
10 then under age fifty-five, not later than ninety days  
11 thereafter, become a member of the system.

1 SECTION 4. Said section twenty-seven, as so  
2 amended, is hereby further amended by striking

3 out subdivision (1) (e), as appearing in said section  
4 one of said chapter three hundred and eighteen, and  
5 inserting in place thereof the following: —

6 (e) Except as provided in section thirty-seven D,  
7 no member shall receive any pension or retirement  
8 allowance from any other pension or retirement sys-  
9 tem established under this chapter or be required to  
10 make contributions to any other such pension or  
11 retirement system, anything to the contrary in any  
12 general or special law notwithstanding; provided,  
13 that nothing herein shall be deemed to prohibit a  
14 person employed by two or more governmental units,  
15 each of which has established a contributory retire-  
16 ment system under this chapter, from becoming a  
17 member of the retirement system of each such gov-  
18 ernmental unit and receiving a pension and retirement  
19 allowance therefrom; and thereupon the treasurer  
20 of each such governmental unit shall withhold five  
21 per cent of the regular compensation due on each  
22 payday from his governmental unit to such member  
23 after he joins the system; provided that if the total  
24 regular compensation of such member from all such  
25 governmental units exceeds fifty dollars per week the  
26 deduction made hereunder by each such treasurer  
27 shall be in the proportion that such member's regular  
28 compensation from such governmental unit bears to  
29 his total regular compensation; and provided, further,  
30 that the total of all deductions made hereunder shall  
31 not exceed five per cent of fifty dollars per week.  
32 But in no case shall the benefits received by such  
33 member be greater than they would have been had  
34 such member's total regular compensation been re-  
35 ceived from one governmental unit.

1 SECTION 5. Said section twenty-seven of said  
2 chapter thirty-two, as so amended, is hereby further  
3 amended by inserting at the end of subdivision (1)  
4 the following new paragraph:—

5 (f) In all cases involving part time or intermittent  
6 employment the board shall have and exercise full  
7 and final jurisdiction to determine eligibility for mem-  
8 bership and the amount of creditable service of all  
9 persons in the service of the city or town.

1 SECTION 6. Section twenty-nine of said chapter  
2 thirty-two, as amended by sections fourteen and fif-  
3 teen of said chapter three hundred and thirty-six, is  
4 hereby further amended by striking out paragraph (b)  
5 of subdivision (2), as appearing in said section one  
6 of said chapter three hundred and eighteen, and in-  
7 serting in place thereof the following paragraph:—

8 (b) A pension equal to the full life annuity speci-  
9 fied under paragraph (2) (a) of this section, except  
10 that the pension shall not exceed the annuity pur-  
11 chasable at his attained age, or at the maximum  
12 retirement age of his group, whichever is the lesser,  
13 by the sum which at age sixty would purchase a full  
14 life annuity of six hundred and fifty dollars, nor shall  
15 it exceed one third of his average annual rate of  
16 regular compensation during the five consecutive cal-  
17 endar years of his creditable service for which such  
18 average rate was the highest; and

1 SECTION 7. Said section twenty-nine, as so  
2 amended, is hereby further amended by striking  
3 out the second sentence in paragraph (d) of said  
4 subdivision (2) and inserting in place thereof the  
5 following:—

6 No pension of a member, except as hereinafter  
7 provided, shall exceed one half of his average annual  
8 rate of regular compensation during the five consecu-  
9 tive calendar years of his creditable service for which  
10 such average rate was the highest, and no retirement  
11 allowance shall exceed two thirds of said average  
12 annual rate of regular compensation unless the an-  
13 nuity exceeds one third of said average annual rate,  
14 in which case the annuity shall be the actuarial  
15 equivalent of the total accumulated deductions and  
16 the total pension shall be the pension provided under  
17 paragraph (2) (b) of this section, the retirement  
18 allowance in all cases to be determined on the basis  
19 of the full life annuity; provided, that in case the  
20 period of prior service is less than five years said  
21 prior service pension shall be computed on the com-  
22 pensation received during the period of prior service  
23 instead of the annual rate hereinbefore mentioned;  
24 and provided, further, that the total pension of any  
25 member retired at age sixty or over with twenty or  
26 more years of creditable service, or retired at the  
27 maximum age for his group with five or more years  
28 of creditable service, shall in no event be less than  
29 the amount which, when added to the annual amount  
30 of the full life annuity to which he is entitled, will  
31 make his total annual retirement allowance equal to  
32 four hundred and eighty dollars or equal to two thirds  
33 of his average annual rate of regular compensation  
34 during the five years immediately preceding retire-  
35 ment, whichever is the lesser.

1 SECTION 8. Said section twenty-nine, as so  
2 amended, is hereby further amended by striking  
3 out paragraph (e) of said subdivision (2), as appear-

4 ing in said section one of said chapter three hundred  
5 and eighteen, and inserting in place thereof the  
6 following:—

7 (e) In addition to the amount of retirement allow-  
8 ance provided for a member classified in Group 1,  
9 as defined in section twenty-seven, a member clas-  
10 sified in Group 2, as so defined, who retires at age  
11 sixty or over shall receive an additional pension  
12 sufficient to provide a total retirement allowance,  
13 computed on the basis of the full life annuity, equal  
14 to that to which he would have been entitled if he  
15 had remained in service and contributed to the an-  
16 nuity savings fund on the basis of his rate of regular  
17 annual compensation in effect at the date of his actual  
18 retirement and had been credited with regular in-  
19 terest on his account in such fund at three per cent,  
20 all for a period of five years beyond his actual age  
21 on such date but not beyond age seventy, and had  
22 then retired.

1 SECTION 9. Section thirty-one G of said chapter  
2 thirty-two, as amended by section seventeen of said  
3 chapter three hundred and thirty-six, is hereby  
4 further amended by striking out paragraph (a) of  
5 subdivision (6), as appearing in said section one of  
6 said chapter three hundred and eighteen, and insert-  
7 ing in place thereof the following paragraph:—

8 (a) On or before the fifteenth day of January in  
9 each year the board shall certify to the mayor or  
10 board of selectmen the amount of the appropriation  
11 estimated to be necessary to pay to the various  
12 funds of the system the amounts payable by the city  
13 or town as enumerated in sections twenty-seven to  
14 thirty-one H, inclusive, for the year beginning on

15 the first day of January, and items of appropriation  
16 providing such amounts shall be included in the  
17 budget.

1 SECTION 10. Said section thirty-one G, as so  
2 amended, is hereby further amended by striking  
3 out the word "such" in the fourth line of paragraph  
4 (b) of said subdivision (6) and inserting in place  
5 thereof the words:— the following, — so that said  
6 paragraph will read as follows:— (b) If the income  
7 from investment of the funds is insufficient to pay  
8 regular interest, the amount required to meet any  
9 such deficiency in any year shall be paid by the city  
10 or town by special appropriation during the follow-  
11 ing year. The city or town, within such time and  
12 in like manner, shall appropriate and pay into the  
13 respective funds of the system sums equal to any  
14 deficiencies found to exist in any of such funds.

1 SECTION 11. Section thirty-seven E of said chap-  
2 ter thirty-two, inserted by section twenty of said  
3 chapter three hundred and thirty-six, is hereby  
4 amended by striking out subdivision (2) and insert-  
5 ing in place thereof the following subdivision:—  
6 (2) An employee who is or may become eligible  
7 under the provisions of any law relative to non-  
8 contributory pensions to receive on retirement any  
9 such pension and who joins any contributory retire-  
10 ment system within one year from its operative date  
11 shall on retirement receive a retirement allowance at  
12 least equal to that to which he would have been  
13 entitled had he not become a member of such con-  
14 tributory retirement system.