

Accompanying the fourth recommendation of the Department of Education (House No. 81). Education, Arts and Humanities.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT PROVIDING FOR THE ENTRY OF THE COMMONWEALTH INTO AN INTERSTATE COMPACT FOR PENSION PORTABILITY FOR EDUCATORS.

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

1 The General Laws are hereby amended by inserting after
2 chapter 32B the following chapter: —

3 Chapter 32C. Compact. The interstate compact with respect to
4 pension portability for educators is hereby enacted into law and
5 entered into by this state with all states legally joining therein in
6 the form substantially as follows:

7 Section 1. Finding. The parties to this compact find as follows:

8 (A) interstate mobility of professional employees of public
9 schools serves the public interest by providing for a more flexible
10 workforce that is better able to match jobs to employees, thereby
11 helping to avoid shortages in particular geographic areas;

12 (B) interstate mobility of professional employees of public
13 schools is impeded because such employees who move from one
14 state to another generally suffer a substantial forfeiture of earned
15 pension benefits under the pension plans in which most of them
16 participate;

17 (C) an agreement among the states to provide increased pension
18 portability for the professional employees of public schools will
19 reduce one of the major barriers to the interstate mobility of such
20 employees.

21 Section 2. Definitions. As used in this compact, unless the
22 context clearly indicates otherwise:

23 (A) a pension plan is "associated" with a state if the pension
24 plan is maintained by the state or a political subdivision thereof;

25 (B) "educator" means an individual who is employed as a
26 teacher or in another professional position by a public school;

27 (C) "eligible educator" means an educator who (1) accrues
28 pensionable service in a pension plan associated with a state by
29 reason of his or her employment by a public school in such state
30 after this compact becomes effective; and (2) accrued at least one
31 year of pensionable service in a pension plan associated with
32 another state by reason of his or her employment by a public
33 school in such state;

34 (D) "exporting plan" means a pension plan in which an eligible
35 educator previously accrued, but is no longer accruing
36 pensionable service, and from which the eligible educator has not
37 received any pension benefits;

38 (E) "importing plan" means the pension plan in which an
39 eligible educator presently is accruing pensionable service;

40 (F) "pensionable service" means a period of employment of an
41 eligible educator by a public school which is included by a pension
42 plan in calculating the pension benefits to which the eligible
43 educator is entitled;

44 (G) "pension plan" means a plan, program, system, fund, or
45 other operation that provides pension benefits to educators;

46 (H) "state" means a state of the United States, the District of
47 Columbia, or any territory or possession of the United States that
48 is a party to this compact;

49 (I) "stipulated rate" means:

50 (1) for an exporting plan, the average annual yield on pension
51 plan assets, net of administrative costs, experienced by the pension
52 plan during the period from the first day of the fiscal year to which
53 the contribution in question applies through the end of the fiscal
54 year immediately preceding the date on which the money is either
55 transferred from the exporting plan to the importing plan, or paid
56 to the eligible educator, as the case may be; and

57 (2) for an importing plan, the average annual yield on pension
58 plan assets experienced by the pension plan during the period from
59 the first day of the fiscal year to which the contribution would
60 have applied through the end of the fiscal year immediately
61 preceding the date on which the money is transferred from the
62 exporting plan to the importing plan.

63 Section 3. Procedures. Each state that is a party to this compact
64 shall establish and maintain procedures adequate to effectuate the
65 transfer of money and pensionable service from an exporting plan
66 to an importing plan in accordance with the following provisions:

67 (A) at the request of an eligible educator who has complied with
68 the application procedures of the states with which the exporting
69 plan and importing plan are associated, the exporting plan shall
70 transfer to the importing plan an amount of money that is equal
71 to the lesser of the following two (2) sums:

72 (1) the local contributions made to the exporting plan by or
73 on behalf of the eligible educator, plus interest calculated at the
74 stipulated rate for the exporting plan; or

75 (2) the total contributions that would have been made to the
76 importing plan by or on behalf of the eligible educator if the
77 eligible educator had been accruing pensionable service in the
78 importing plan for the entire period during which he or she was
79 accruing pensionable service in the exporting plan, assuming
80 employment at the same salary, plus interest calculated at the
81 stipulated rate for the importing plan;

82 (B) upon receipt of the money transferred pursuant to section
83 3A, the importing plan shall credit the eligible educator with
84 pensionable service in the importing plan as follows: —

85 (1) when the amount of money transferred is the sum calculated
86 pursuant to section 3A1, the importing plan shall, for purposes
87 of vesting and date of eligibility to begin receiving pension
88 benefits, credit the eligible educator with the amount of
89 pensionable service that he or she accrued in the exporting plan.
90 For purposes of the amount of the pension benefits to be received
91 by the eligible educator, the importing plan shall credit the eligible
92 educator with an amount of pensionable service calculated as
93 follows:

94 (a) the amount of pensionable service that the eligible educator
95 accrued in the exporting plan multiplied by:

96 (b) a fraction, the numerator of which is the amount of money
97 calculated under section 3A1, plus any supplementary payments
98 made pursuant to section 3B2, and the denominator of which is
99 the amount of money calculated under section 3A2;

100 (2) when the amount of money transferred to the importing plan
101 on behalf of an eligible educator is the sum calculated under

102 section 3A1, the eligible educator may elect to make supplementen-
103 tary payments to the importing plan up to the amount of the
104 difference between the sum transferred and the sum calculated
105 under section 3A2. Such supplementary payments may be made
106 by the eligible educator in conjunction with the transfer of money
107 from the exporting plan to the importing plan, or at any time
108 thereafter before the eligible educator receives any pension
109 benefits from the importing plan, provided that the monetary
110 value of any supplementary payments made subsequent to the
111 transfer of money from the exporting plan to the importing plan
112 shall be adjusted, as determined by the actuary of the importing
113 plan, to reflect the period elapsed between the date the money is
114 transferred from the exporting plan and the date the supplementen-
115 tary payment is made;

116 (3) when the amount of money transferred is the sum calculated
117 pursuant to section 3A2, the importing plan shall, for purposes
118 of vesting and date of eligibility to begin receiving pension
119 benefits, and for purposes of the amount of the pension benefits
120 to be received by the eligible educator, credit the eligible educator
121 with the amount of pensionable service that the eligible educator
122 accrued in the exporting plan;

123 (C) when the amount of money transferred from the exporting
124 plan to the importing plan is the sum calculated pursuant to
125 section 3A2, any money remaining to the credit of the eligible
126 educator in the exporting plan shall be retained in the exporting
127 plan and used as follows:

128 (1) for transfer to another importing plan at the request of the
129 eligible educator in accordance with the terms of this compact;

130 (2) to pay pension benefits to the eligible educator if he or she
131 again becomes a participant in the exporting plan; or

132 (3) if not used for purpose (1) or (2) above, for payment to the
133 eligible educator, plus interest calculated at the stipulated rate for
134 the exporting plan, when notification has been received from the
135 eligible educator that he or she has begun to receive pension
136 benefits from the importing plan;

137 (D) there shall be no limit on the number of transfers of money
138 and pensionable service that an eligible educator may take from
139 an exporting plan to an importing plan under this compact. In

140 the case of a subsequent transfer, money previously transferred
141 to an importing plan from an exporting plan shall for purpose
142 of such subsequent transfer be considered "contributions made
143 to the exporting plan by or on behalf of the eligible educator"
144 within the meaning of section 3A1.

145 Section 4. Effective Date of Compact; Withdrawal from
146 Compact.

147 (A) When two or more states enact statutes adopting this
148 compact, it shall become effective in those states on the dates
149 specified in such statutes. Any other state may thereafter become
150 a party to this compact by enacting a statute adopting it, and the
151 compact shall become effective in that state on the date specified
152 in such statute.

153 (B) a party state may withdraw from this compact by repealing
154 the statute adopting this compact, provided that no such
155 withdrawal shall be effective until at least one (1) year after the
156 governor of the withdrawing state has given written notice of the
157 repeal of the statute adopting this compact to the governors of
158 all other party states. The withdrawal of a party state shall not
159 relieve any pension plan associated with such state of its obligation
160 to pay to an eligible educator on whose behalf money and
161 pensionable service has been transferred under this compact
162 before the effective date of such withdrawal the pension benefits
163 to which he or she is entitled under this compact.

164 Section 5. Other Arrangements Unaffected. Nothing contained
165 in this compact shall be construed to prevent or inhibit states that
166 are parties to this compact from entering into other arrangements,
167 not inconsistent with the terms of this compact, to effectuate the
168 purpose set forth in section one.

169 Section 6. Construction and Severability.

170 (A) This compact shall be liberally construed so as to effectuate
171 the purpose set forth in section one.

172 (B) If any provision of this compact, or application thereof, is
173 held by a state or federal court to be invalid with respect to a
174 particular party state, said holding shall not effect the validity of
175 such provision, or application thereof, in any other party state.
176 The provisions of this compact shall be severable, and, as to the
177 party state subject to the court holding, this compact shall in all

178 other respects remain in full force and effect. If the party states
179 that are not subject to the court holding believe that the provision
180 of this compact, or application thereof, that has been declared
181 invalid is not severable, they may, by majority vote, require the
182 party state that is subject to the court holding to withdraw from
183 this compact, in which event the withdrawal shall be effective
184 immediately upon such vote, provided that the withdrawal shall
185 not relieve any pension plan associated with such party state of
186 its obligation to pay to an eligible educator on whose behalf money
187 has been or is in the process of being transferred under this
188 compact prior to the effective date of such withdrawal the pension
189 benefits to which he or she is entitled under this compact.

