

By Mr. O'Leary of Melrose, petition of Timothy F. O'Leary for legislation to further regulate certain retirement allowances. Public Service.

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**The Commonwealth of Massachusetts**

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

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AN ACT FURTHER REGULATING CERTAIN RETIREMENT ALLOWANCES.

*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 8 of Chapter 32 of the General Laws is hereby amended  
2 by striking out subsection (3), as appearing in chapter 697 of the  
3 acts of 1987, and inserting in place thereof the following  
4 subsection: —

5 (3) Modifications of retirement allowance. — If, as a result of  
6 the report of such medical panel, as a result of the submission  
7 of earnings information under section ninety-one A, or as a result  
8 of the completion of a rehabilitation program under subdivision  
9 (5) of section twenty-one, the board finds that such retired member  
10 is engaged or is able to engage in gainful occupation and that the  
11 annual rate of his actual or potential earnings is less than his  
12 regular compensation as defined in this subdivision, but is more  
13 than the difference between such regular compensation plus the  
14 sum of five thousand dollars and the normal yearly amount of  
15 his retirement allowance, then the yearly amount of his pension  
16 shall be reduced, and if his actual or potential earnings are more  
17 than such regular compensation, his pension shall be suspended.  
18 Notwithstanding any other provisions of this section, if such  
19 retired member submits earnings information pursuant to section  
20 ninety-one A, indicating earnings in excess of regular compensa-  
21 tion, as therein described, such member's pension shall be reduced  
22 as provided for in this subdivision and shall not be increased for  
23 a period of one year unless a medical panel finds that the mental

24 or physical condition of such member has deteriorated. If the  
25 annual rate of his earnings should later be changed, the yearly  
26 amount of his pension shall be further modified by reinstating,  
27 increasing, reducing, or suspending it, as the case may be. The  
28 yearly amount of such reduced or modified pension at all times  
29 shall be equal to the excess, if any, of the amount of such regular  
30 compensation plus the sum of five thousand dollars over the sum  
31 of the yearly amount of regular life annuity payable to him under  
32 clause (i) of Option (a) of subdivision (2) of section twelve and  
33 the annual rate of his current actual or potential earnings, but in  
34 no event shall it exceed the yearly amount of the pension originally  
35 granted to him as adjusted pursuant to section one hundred and  
36 two. For purposes of this subdivision, regular compensation  
37 means subject to further definition by regulations of the division  
38 of public employee retirement administration, regular compensa-  
39 tion which would have been payable during the preceding year  
40 had the member continued in service in the grade held by him  
41 at the time he was retired. The commissioner of public employee  
42 retirement administration shall, subject to the provisions of  
43 section fifty of chapter seven, promulgate regulations for the  
44 determination of the potential earnings of any such retired  
45 member based upon such member's functional capacity, age,  
46 education and experience. Any such modification may be  
47 appealed by the member to the contributory retirement appeal  
48 board.