

SENATE No. 1209

By Mr. Norton, a petition (accompanied by bill, Senate, No. 1209) of Thomas C. Norton and the Massachusetts Federation of Teachers, AFT, AFL-CIO, by Kathleen A. Kelley, for legislation to provide for an early retirement program for employees of public institutions of higher education. Public Service.

The Commonwealth of Massachusetts

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

AN ACT TO ESTABLISH THE MASSACHUSETTS RETIREMENT INCENTIVE FOR HIGHER EDUCATION EMPLOYEES.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to immediately provide for a
3 retirement incentive for higher education employees so as to ef
4 fectuate a realignment of higher education employees, therefore
5 it is hereby declared to be an emergency law, necessary for the
6 immediate preservation of the public 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. Notwithstanding the provisions of chapter
2 thirty-two of the General Laws or of any general or special law
3 to the contrary, the state retirement board, established under the
4 provisions of section eighteen of chapter ten of the General Laws,
5 shall establish and implement a retirement incentive for higher
6 education employees, hereinafter referred to as the retirement
7 incentive program, in accordance with the provisions of this act;
8 provided that, in order to be deemed eligible by said board for
9 any of the benefit options under the retirement incentive program,
10 an employee (i) shall be an employee of the commonwealth on
11 the effective date of this act, (ii) shall have been a member in
12 active service of the state retirement system on July first, nineteen
13 hundred and ninety-three, (iii) shall be classified in Group I or

14 Group 2 of said retirement system in accordance with the provi-
15 sions of paragraph (g) of subdivision (2) of section three of said
16 chapter thirty-two, (iv) shall be eligible to receive a superannua-
17 tion retirement allowance in accordance with the provisions of
18 subdivision (1) of section five of said chapter thirty-two or of
19 subdivision (1) of section ten of said chapter thirty-two upon the
20 date of his written application with said board, and (v) shall have
21 filed such written application with said board in accordance with
22 section two of this act. Said retirement incentive shall be limited
23 to fifteen hundred eligible employees as defined by this section.
24 The state board of retirement shall stamp the date and time of
25 receipt on each application filed for retirement under this act and
26 process early retirement approvals in order of receipt of such
27 application, from the earliest date to the latest date; provided,
28 however, that said application may be delivered in person or by
29 mail. No employee shall be eligible for more than one of the
30 incentives offered herein; and no employee may become eligible
31 for one incentive by virtue of the application of a different
32 incentive.

33 For the purposes of this act, words shall have the same meaning
34 as in Chapter 32 of the General Laws, unless otherwise expressly
35 provided or unless the context clearly requires otherwise. Any
36 employee of the commonwealth who retires and receives an
37 additional benefit in accordance with the provisions of this act
38 shall be deemed to be retired for superannuation under the provi-
39 sions of said chapter thirty-two and shall be so subject to any and
40 all provisions of said chapter thirty-two.

1 SECTION 2. Notwithstanding so much of the provisions of
2 section five of chapter thirty-two of the General Laws that requires
3 a retirement date within four months of the filing of an application
4 for superannuation retirement, in order to receive the retirement
5 benefit provided by this act, an eligible employee, shall file his
6 application for retirement under the provisions of this act with
7 the state retirement board after January fifteenth, nineteen
8 hundred and ninety-four but no later than March first, nineteen
9 hundred and ninety-four; provided, however, that the retirement
10 date requested shall be June thirtieth, nineteen hundred and
11 ninety-four.

1 SECTION 3. Any employee who is eligible for the retirement
2 incentive program in accordance with the provisions of section
3 one of this act may request in his application for retirement that
4 the state retirement board credit him with an additional retirement
5 benefit in accordance with the provisions of this section; provided,
6 however, that each such employee shall request and receive a
7 combination of years of creditable service and years of age, the
8 sum of which shall not be greater than five years, for the purposes
9 of determining his superannuation retirement allowance pursuant
10 to the provisions of paragraph (a) of subdivision (2) of section
11 five of chapter thirty-two of the General Laws.

12 Notwithstanding such credit, the total normal yearly amount
13 of the retirement allowance, as determined in accordance with the
14 provisions of said section five of said chapter thirty-two, of any
15 employee who retires and receives the retirement benefit provided
16 by this act shall not exceed four-fifths of the average annual rate
17 of his regular compensation as determined in accordance with said
18 section five of said chapter thirty-two.

1 SECTION 4. For any married employee who retires and
2 receives an additional benefit under the retirement incentive
3 program, an election of a retirement option under the provisions
4 of section twelve of chapter thirty-two of the General Laws shall
5 not be valid unless i) it is accompanied by the signature of the
6 member's spouse indicating the member's spouse's knowledge and
7 understanding of the retirement option selected, or ii) the spouse
8 has received notice of such election. If any member who is married
9 files an election which is not so accompanied, the state retirement
10 board shall within fifteen days notify the member's spouse by
11 registered mail of the option election, and the election shall not
12 take effect until thirty days following the date on which such
13 notification is sent, and such election may be changed by the
14 member at any time within said thirty days, or at any other time
15 permitted under said chapter thirty-two. Nothing in this section
16 shall be deemed to affect the effective date of any retirement
17 allowance, but in the event of any election having been filed which
18 is not so accompanied, the payment of any allowance so elected
19 shall not be commenced earlier than thirty days after the sending
20 by the retirement board of the notice required hereunder.

1 SECTION 5. The state retirement board, established under the
2 provisions of section eighteen of chapter ten, shall provide
3 retirement counseling services to employees who choose to retire
4 under the retirement incentive program. Said counseling shall
5 include, but not be limited to, the following provisions: (i) the
6 additional benefit options available under the retirement incentive
7 program; (ii) the election of a retirement option under the provi-
8 sions of section twelve of chapter thirty-two of the General Laws;
9 (iii) restrictions on employment after retirement; (iv) the provi-
10 sion of health care benefits under the provisions of chapter thirty-
11 two A of the General Laws; (v) the payment of cost of living
12 adjustments; (vi) the effect of federal and state income taxation.
13 Each such employee shall sign a sworn statement that he has
14 received such counseling prior to the approval by the state
15 retirement board of such employees' application for superannua-
16 tion retirement and additional benefits under said retirement
17 incentive program.

1 SECTION 6. The commissioner of public employee retirement
2 administration shall analyze, study, and value the costs
3 attributable to the additional benefits payable under the
4 retirement incentive program in accordance with the provisions
5 of this act; provided that said commissioner shall file the report
6 with the joint committee on public service and the house and
7 senate committees on ways and means on or before May thirtieth,
8 nineteen hundred and ninety-four.

1 SECTION 7. The secretary of administration and finance shall
2 prepare a funding schedule to reflect the costs and liabilities
3 attributable to the additional benefits payable under the
4 retirement incentive program in accordance with the provisions
5 of this act which shall be designed to reduce the commonwealth's
6 additional pension liability attributable to such costs and
7 liabilities to zero on or before June thirtieth, two thousand;
8 provided, that in preparing such schedule, said secretary shall
9 consider the analysis of the commissioner of public employee
10 retirement administration filed in accordance with the provisions
11 of section six of this act; and provided further, that said secretary
12 shall annually update such schedule until said June thirtieth, two

13 thousand. Said secretary shall file such funding schedule with the
14 joint committee on public service and the house and senate ways
15 and means committees on or before July first, nineteen hundred
16 and ninety-three and shall file updates thereto annually on or
17 before March first of each year; provided that if within forty-five
18 days of each such filing, none of the committees shall have taken
19 action to disapprove such schedule or update thereto, such
20 schedule or update shall be deemed to be approved; provided
21 further, however, if such schedule is not so approved, said
22 secretary shall review any comments made by such committees
23 and prepare and submit another schedule in accordance with the
24 provisions of this section; provided, further, that such other
25 schedule shall be filed with the joint committee on public service
26 and the house and senate ways and means committees within
27 thirty days of such disapproval.

1 SECTION 8. A person who retires under the provisions of this
2 act and is eligible to receive payment in lieu of accrued vacation
3 time, unused sick leave or any other severance payment program
4 shall receive fifty percent of the total amount of such payments
5 due during the fiscal year ending June thirtieth, nineteen hundred
6 and ninety-four, and the remaining fifty percent before July thirty-
7 first, nineteen hundred and ninety-four.

1 SECTION 9. The secretary of education shall list each position
2 made vacant by the retirement of an employee under the
3 retirement incentive program and who shall be receiving an
4 additional benefit in accordance with the provisions of this act
5 and shall file such list with the joint committee on public service
6 and the joint committee on education on or before March
7 fifteenth, nineteen hundred and ninety-four; provided that, for
8 each such position, such list shall include the line-item of section
9 two, two A or two B of chapter one hundred and thirty-three of
10 the acts of nineteen hundred and ninety-two in which such
11 position is funded, the classification title of such position, the
12 salary range for such title and the salary payable to the person
13 who so retired from such position.

1 SECTION 10. The secretary of education in consultation with
2 the president's council shall prepare a report listing which of the

3 positions made vacant by the retirement of any employee under
4 the retirement incentive program and receiving an additional
5 benefit in accordance with the provisions of this act that they shall
6 have determined to be critical and essential to the operations of
7 the services provided by the institutions of higher education as
8 defined in section five of chapter fifteen A of the General Laws,
9 and to be necessary to fill; provided that such report shall include
10 the following: (i) the classified title of each such position, (ii) the
11 number of such positions listed in such report with such title, and
12 (iii) the salary range payable to each such position that said
13 secretary of education shall have determined that such position
14 shall be filled; and provided, further, that said secretary of
15 education prepare one or more supplementary reports to such
16 report in the same form if he shall determine that any such
17 supplementary report shall be necessary. Such report and such
18 supplementary reports shall be filed with the joint committee on
19 public service and the joint committee on education on or before
20 June first, nineteen hundred and ninety-four.

1 SECTION 11. On or after June thirtieth, nineteen hundred
2 and ninety-four, no position made vacant by the retirement of any
3 employee under the retirement incentive program provided by this
4 act shall be filled on a permanent or temporary basis and the
5 comptroller shall not authorize the payment of any regular
6 compensation, including paid leave, vacations, salary in lieu of
7 vacation, payments in lieu of maintenance, holiday pay, overtime
8 pay and salary differentials from any account funded by an appro-
9 priation in section two, section two A or section two B of chapter
10 one hundred and thirty-three of the acts of nineteen hundred and
11 ninety-two until such position shall be included on such list of
12 positions that shall have been submitted by said secretary of
13 education to the joint committee on public service and the joint
14 committee on education in accordance with the provisions of
15 section ten of this act.

