

By Mr. Weinberg of Boston, petition of Norman S. Weinberg for legislation to provide that certain employees be required to elect either workmen's compensation or pension benefits. Commerce and Labor.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING THAT CERTAIN EMPLOYEES MUST ELECT EITHER WORKMEN'S COMPENSATION OR PENSION BENEFITS.

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. The first sentence of section 73 of chapter 152 of
2 the General Laws, as most recently amended by chapter 1012 of
3 the acts of 1971 is hereby amended by striking out the words "by
4 reason of the same injury".

1 SECTION 2. Subsection (2) of section 14 of chapter 32 of the
2 General Laws, as most recently amended by chapter 360 of the
3 acts of 1958 is hereby amended by striking subsection (2) and
4 inserting the following:

5 (2) *Workmen's Compensation Benefits Offset.* (a) All sums of
6 money payable under the provisions of sections thirty-one, thirty-
7 four, thirty-four A, thirty-five and thirty-five A of chapter one
8 hundred and fifty-two directly to a retired member or to the legal
9 representative or dependents of a deceased member on account of
10 his death, including so much of the amount of any lump sum
11 settlement payable under the provisions of such sections directly
12 to any such person as is allocable to the period following the
13 retirement or death of such member, but excluding any payments
14 for or amounts allocable to any period prior to the date his
15 retirement allowance became effective, shall be offset against and
16 payable in lieu of any pension payable on his account under the
17 provisions of section five, six, seven, nine or ten but not against
18 his accumulated total deductions or any annuity derived
19 therefrom. Whenever the amount of any such lump settlement is

20 payable directly to a beneficiary, the period over which it is
21 allocable for purposes of this section shall be determined by the
22 actuary in a manner which is consistent with that set forth in
23 paragraph (1) (c) of this section. If any such pension exceeds the
24 compensation payable on account of such member under such
25 provisions of chapter one hundred and fifty-two when both are
26 reduced to the same periodical basis, the excess only shall be paid
27 as a pension so long as such compensation continues. If any such
28 pension is less than or equal to such compensation, no pension
29 shall be paid so long as such compensation continues to be equal
30 to or greater than such pension.

31 (b) In all cases where a member or a beneficiary receives
32 delayed compensation payments or an amount of any lump sum
33 settlement payable directly to him under the provisions of
34 sections thirty-one, thirty-four, thirty-four A, thirty-five or thirty-
35 five A of chapter one hundred and fifty-two subsequent to his
36 receipt of payments under any pension granted under the
37 provisions of section five, six, seven, nine or ten no further
38 pension payments shall be made unless and until such time as the
39 total amounts which by then would have been payable as
40 compensation and pension together as set forth in paragraph (a)
41 of this subdivision, if there had been no delay in making such
42 compensation payments, shall exceed the total amounts of
43 compensation and pension actually paid by them after due
44 allowance in either case for the allocation of any such lump sum
45 settlement.

46 (c) If a member or a beneficiary entitled to a pension under the
47 provisions of section five, six, seven, nine or ten, and also having
48 a right to compensation under the provisions of chapter one
49 hundred and fifty-two, neglects or fails to prosecute fully such
50 right or to cooperate with the board in its prosecution thereof, as
51 provided for by the provisions of section seventy-three of such
52 chapter, the board may, during the period of such neglect or
53 failure, suspend such member's or beneficiary's right to further
54 payment under the provisions of section six, seven or nine. Under
55 the circumstances set forth in the said section seventy-three, the
56 duty of the board to prosecute shall be mandatory.