

HOUSE No. 3857

The Commonwealth of Massachusetts

PRESENTED BY:

Carmine Lawrence Gentile

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide retirement incentives in public higher education.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/19/2023</i>

HOUSE No. 3857

By Representative Gentile of Sudbury, a petition (accompanied by bill, House, No. 3857) of Carmine Lawrence Gentile for legislation to provide retirement incentives in public higher education. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to provide retirement incentives in public higher education.

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. For the purposes of this act, the following word shall, unless the context
2 clearly requires otherwise, have the following meaning:

3 “State employees retirement board” or “board”, the board established in section 18 of
4 chapter 10 of the General Laws for the purposes of administering the state employees’ retirement
5 system.

6 “State university”, an institution listed in section 5 of chapter 15A of the General Laws.

7 “State universities retirement incentive program” or “program”, the program established
8 in section 3.

9 SECTION 2. (a) Notwithstanding any general or special law to the contrary, the state
10 universities shall achieve direct payroll savings in fiscal year 2025 and beyond through
11 implementation of this act.

12 (b) To achieve the savings required by subsection (a), a state university may: (i) offer 1-
13 time incentive payments to encourage employees to resign or retire; or (ii) implement the
14 retirement incentive program as described in sections 3 to 7, inclusive.

15 (b) The state universities shall, not later than March 20, 2024, provide notice to the state
16 board of retirement on the number of employees anticipated to separate from state service, and
17 anticipated timing, under clauses (i) and (ii) of subsection (b).

18 SECTION 3. (a) Notwithstanding chapter 32 of the General Laws or any other general or
19 special law to the contrary, the state board of retirement shall establish and implement a
20 retirement incentive for employees of state universities, to be known as the state universities
21 retirement incentive program.

22 (b) To be considered eligible by the state board of retirement for any of the benefit
23 options under the program, an employee shall: (i) be an employee, as of the effective date of this
24 act and through the date of retirement established in section 4, of a state university, the board of
25 trustees of which has approved participation in this program by January 1, 2024; (ii) be a
26 member in service of the state employees' retirement system pursuant to clause (i) of paragraph
27 (a) of subdivision (1) of section 3 of chapter 32 of the General Laws as of the effective date of
28 this act and have 25 years or more of creditable state service at the time of their program
29 application; (iii) be classified in Group 1 of the state employees' retirement system pursuant to
30 paragraph (g) of subdivision (2) of said section 3 of said chapter 32 as of the effective date of
31 this act; (iv) be eligible to receive a superannuation retirement allowance in the absence of the
32 program pursuant to subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section
33 10 of said chapter 32 as of the effective date of this act; (v) have not notified, in writing, as of

34 January 1, 2024, either the state university or the state board of retirement of their planned
35 retirement or separation from the university within the next year; and (vi) file a timely
36 application with the board pursuant to section 4.

37 (c) Notwithstanding subsections (a) and (b), the following employees shall not be eligible
38 to receive any benefit from the program: (i) employees whose compensation is funded from a
39 capital appropriation or federal grant, as each is defined in section 1 of chapter 29 of the General
40 Laws, as of the filing date for the application pursuant to section 4; (ii) elected officials; and (iii)
41 employees or members of the state employees' retirement system who, as of the effective date of
42 this act, are not contributing to the retirement system or have not completed reinstatement
43 pursuant to section 105 of said chapter 32.

44 SECTION 4. Notwithstanding section 5 of chapter 32 of the General Laws, an eligible
45 employee shall submit an application to the state board of retirement on or before April 1, 2024
46 in order for the

47 employee to be eligible to receive the retirement benefit provided in this act. The
48 retirement date requested in an eligible employee's application shall be June 30, 2024 or, upon a
49 state university's local board of trustees' approval for delay resulting from multiple employees
50 from the same division choosing to participate in this program or university need, a delayed
51 retirement date of no later than December 31, 2024. Employees may rescind their notice of
52 retirement, up to the earlier of: (i) 1 week prior to their submitted retirement date; or (ii) 1 week
53 prior to an offer of employment for a replacement hire in situations where a replacement hire has
54 been approved. The application for retirement may be delivered to the state board of retirement
55 in person, by mail or in a manner as the board may approve, including by electronic means.

56 SECTION 5. (a) An employee who is eligible for the state universities retirement
57 incentive program may request in the application for retirement that the state board of retirement
58 credit the employee with an additional retirement benefit pursuant to this section. Each such
59 employee shall request and receive a combination of years of creditable service and years of age,
60 in full-credit increments; provided however, that the sum of the years of creditable service and
61 years of age shall not be greater than 6 total credits for the purposes of determining the
62 employee's superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of
63 section 5 of chapter 32 of the General Laws. The employee's state university of record shall pay
64 to the state board of retirement 2.5 per cent of the participant's highest 3-year annual average
65 salary for each purchased credit up to a maximum of 6 purchased credits towards their retirement
66 benefit, with 6 credits representing the aggregate payment of 15 per cent of the participant's
67 highest 3-year annual average salary. The program participant shall pay to the state board of
68 retirement 4.5 per cent of the participant's highest 3-year annual average salary, plus an
69 additional 1.0 per cent of the participant's highest 3-year annual average salary above \$30,000,
70 for each purchased credit (year of age or year of service) up to a maximum of 6 total purchased
71 credits. Such payment, upon the participant's approval, may be directed from the state university
72 directly to the state board of retirement from compensated absences payouts at the time of the
73 participant's retirement. Failure of participants to make such payments for the purchase of credits
74 to the state board of retirement shall result in no addition to the participant's creditable years
75 being considered in the determination of retirement benefits until payments are made.

76 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,
77 as determined pursuant to said section 5 of said chapter 32, of any employee who retires and

78 receives the program benefit shall not exceed 80 per cent of the average annual rate of the
79 employee's regular compensation as determined pursuant to said section 5 of said chapter 32.

80 (b) An employee shall not: (i) be eligible for both of the 2 different retirement incentives
81 as noted in clauses (i) and (ii) of subsection (b) of section 2 (b); (ii) become eligible for 1
82 incentive by virtue of the application of a different incentive; and (iii) utilize the incentive to
83 qualify for any other rights or benefits under chapter 32 of the General Laws. An employee who
84 retires and receives an additional retirement benefit pursuant to this act shall be considered
85 retired for superannuation purposes under said chapter 32 and shall be subject to said chapter 32.
86 A married employee who retires and receives an additional benefit under this act shall be subject
87 to the requirements of the second paragraph of subdivision (1) of section 12 of said chapter 32.

88 (c) Notwithstanding paragraph (a) of subdivision (2) of section 5 of chapter 32 of the
89 General Laws, an eligible employee retiring under the state universities retirement incentive
90 program who has served in

91 more than one group shall receive a retirement allowance as if the employee served only
92 as a Group 1 employee for the entire length of state service and shall not receive a retirement
93 allowance consisting of pro-rated benefits based upon the percentage of total years of service that
94 the employee rendered in each group.

95 SECTION 6. The state board of retirement shall provide retirement counseling to
96 employees who apply to retire under the state universities retirement incentive program or to
97 eligible employees who request retirement counseling. Counseling services shall be scheduled
98 between December 1, 2023 and April 1, 2024. Counseling by the board shall include, but need
99 not be limited to: (i) a full explanation of the retirement benefits provided by the program; (ii) a

100 comparison of the expected lifetime retirement benefits payable to an employee under the
101 retirement incentive program and under chapter 32 of the General Laws; (iii) the election of a
102 retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after
103 retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement
104 allowance; and (vi) the effect of federal and state taxation on retirement income. The group
105 insurance commission shall provide counseling regarding the provision of health care benefits
106 under chapter 32A of the General Laws. Each employee shall sign a statement that the employee
107 has received counseling or has elected not to receive counseling prior to the approval by the
108 board of the employee's application for superannuation benefits and the additional benefit
109 provided by this act.

110 SECTION 7. Notwithstanding any general or special law or any collective bargaining
111 agreement or other employment contract to the contrary and in consideration of the benefits
112 conferred in this act, an employee who elects to retire under this act shall receive payment for
113 accrued vacation time, buyback of pro-rated unused sick leave, and other benefits under the
114 collective bargaining agreement or other employment contract. The board shall deny an
115 application for the state universities retirement incentive program under this act by an employee
116 who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with
117 this section is in effect at the time of the application unless the employee organization
118 representing the employee has filed with the board and the secretary of administration and
119 finance a statement waiving any inconsistent provisions of the agreement on behalf of all
120 members of the bargaining unit who file applications for the retirement incentive program
121 pursuant to this act.

122 SECTION 8. Notwithstanding section 91 of chapter 32 of the General Laws, an employee
123 retired under this act may teach on a part-time basis or accept part-time state employment subject
124 only to the limitations provided by law. A member who retired under the state universities
125 retirement incentive program shall be eligible for reinstatement under section 105 of said chapter
126 32. If an individual who receives an incentive through this program subsequently accepts full-
127 time employment with any state agency, including a state university, the employee shall: (i)
128 repay the cash incentive payment; or (ii) lose the additional creditable years of service or age. If
129 the employee loses the additional creditable years of service or age, the state board of retirement
130 shall repay the state university and employee, as appropriate, for any purchased service and age
131 credits, with no interest, as determined by the state board of retirement.

132 SECTION 9. Not later than June 1, 2024, the secretary of administration and finance
133 shall file with the house and senate committees on ways and means a report detailing: the
134 number of employee applications received for the state universities retirement incentive
135 program; the anticipated dates of

136 retirement for each participant; the official positions of the employees; and the impact of
137 program participation on each state university's ability to carry out its responsibilities as
138 provided by law. Further, this report shall detail the implementation of clauses (i) and (ii) of
139 subsection (b) of section 2, including: (i) the number of employees who plan to separate from
140 state service pursuant to each clause; (ii) the timing of each planned separation; (iii) the official
141 positions of the employees; (iv) the impact that all completed and anticipated separations will
142 have on each state university's ability to carry out its responsibilities as provided by law; and (v)
143 the estimated net cost-savings in fiscal year 2025 through fiscal year 2028 for each state
144 university associated with implementation of this program.

145 SECTION 10. Participating state university shall certify, to the state comptroller and the
146 state board of retirement, the following information 15 days prior to the various dates of
147 retirement: (i) the current annual salary as well as the salary at date of retirement of each
148 individual who has enrolled in the state universities retirement incentive program; (ii) the item of
149 appropriation in which the position is funded; (iii) the classification and title of the position; (iv)
150 the retirement date for the person who will retire from the position; and, (v) the amounts of
151 projected accrued vacation time, unused sick leave buyback or other accrued benefits for each
152 employee as of the employee's date of retirement.

153 SECTION 11. The executive director of the public employee retirement administration
154 commission, established in section 49 of chapter 7 of the General Laws, shall analyze, study and
155 evaluate the costs and actuarial liabilities attributable to the additional benefits payable pursuant
156 to this act. Not later than September 30, 2028, the commission shall file a report with the
157 secretary of administration and finance, the joint committee on public service and the house and
158 senate committees on ways and means regarding its findings.

159 SECTION 12. Not later than November 30, 2028, the secretary of administration and
160 finance shall file with the house and senate committees on ways and means a subsequent report
161 detailing: (i) the number of employees participating in the state universities retirement incentive
162 program; (ii) the estimated costs and savings in fiscal year 2025 through fiscal year 2028 as a
163 result of the employees' participation; and (iii) the number of positions that have been either
164 refilled or not refilled during those periods. For each position that has not been refilled, the report
165 shall detail how the duties and expertise associated with the position have been fulfilled or
166 otherwise accounted for by the state university.