

SENATE No. 1384

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 allowing for payment in lieu of a disability allowance.

PETITION OF:

NAME:

John F. Keenan

William N. Brownsberger

DISTRICT/ADDRESS:

Norfolk and Plymouth

Second Suffolk and Middlesex

SENATE No. 1384

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1384) of John F. Keenan and William N. Brownsberger for legislation to allow for payment in lieu of a disability allowance. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act allowing for payment in lieu of a disability allowance.

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. Section 7 of Chapter 32 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by inserting after the word “Allowance” in line 1 and line
3 48, in each instance, the words:- “or Payment”

4 SECTION 2. Said section 7 of said Chapter 32, as so appearing, is hereby amended by
5 inserting at the end thereof the following new subsection:-

6 (f) Notwithstanding the provisions of subsections (a) through (e), any member with ten or
7 fewer years of creditable service who has been granted an accidental disability retirement under
8 this section may elect to receive, in lieu of any allowance to such member under the provisions
9 of this section, payments under the provisions of section 106.

10 SECTION 3. Chapter 32 of the General Laws, as so appearing, is hereby amended by
11 inserting the following new section:-

12 Section 106. (a) Notwithstanding the provisions of subsections (a) through (e) of Section
13 7, any member with ten or fewer years of creditable service who has been granted an accidental
14 disability retirement under section 7 may elect to receive, in lieu of a retirement allowance
15 payable under said section, a yearly amount of payments equal to whichever is the greater of: (i)
16 two times the annual rate of the member's regular compensation on the date such injury was
17 sustained or such hazard was undergone on the account of which the member was granted an
18 accidental disability allowance; or; (ii) two times the average annual rate of the member's regular
19 compensation for the 12-month period for which the member last received regular compensation
20 immediately preceding the date the member's retirement allowance under section 7 became
21 effective.

22 (b) For purposes of determining the amount of payments under this section on account of
23 the retirement of any member classified in Group 4 as a call fireman or reserve policeman, who
24 was performing the duties of a call fireman or reserve policeman at the time the injury was
25 sustained or the hazard was undergone which resulted in the granting of a disability retirement
26 allowance, the annual rate of regular compensation of such member shall be considered to be the
27 same as that of permanent firemen or policemen of the lowest rank and grade, as the case may
28 be, in the city or town in which the member was employed; provided, that if there are no such
29 permanent firemen or policemen, then the annual rate of the member's regular compensation
30 shall be considered for such purposes to be seven-thousand five-hundred dollars.

31 (c) The election to receive payments under this section in lieu of an allowance under
32 sections 7 and 12, shall be made by such member in writing on a prescribed form filed with the
33 board and shall be irrevocable; provided, that no election to receive benefits under this section
34 shall be valid unless the form is filed with the board on or before the date the member's

35 allowance under section 7 would become effective. Upon receipt of such form by the board, the
36 election shall take effect as of the date the member's allowance under section 7 would have
37 become effective; provided, that if the member's death occurs after the member's application
38 under section 7 is approved but before the date the member receives a first payment under this
39 section, then the member's surviving spouse shall have the option of receiving the payments due
40 under this section or electing to receive an allowance and beneficiary payments in accordance
41 with the sections 7 and 12 of this chapter; provided further that if there is no surviving spouse,
42 then the amount of any accumulated total deductions credited to the member's account in the
43 annuity savings fund of the system shall be paid in accordance with subsection (2) of section 11.

44 (d) For any member who is married, an election to receive payments under this section
45 shall not be valid unless it is accompanied by the signature of the member's spouse indicating
46 that the member's spouse has knowledge and understanding of the disability retirement
47 allowance election. If any member who is married files an election which is not so accompanied,
48 the board shall within fifteen days notify the member's spouse by registered mail of the option
49 election and of the spouse's right to sign and return an acknowledgment of receipt and
50 understanding of such information within thirty days after receipt of the acknowledgment. The
51 election shall not take effect until it is accompanied by the signature of the member's spouse;
52 provided, however, that no such signature shall be required if the spouse fails to submit such
53 signed acknowledgment on or before the thirtieth day from receipt of the information from the
54 retirement board. Such election made prior to the spousal notification may be changed in
55 accordance with the spouse's understanding of the retirement allowance selected, or at any later
56 time otherwise permitted under this chapter. Nothing in this paragraph shall be deemed to affect
57 the effective date of any retirement allowance. The provisions of this section relative to the

58 member's election being accompanied by the member's spouse shall not apply in the case of a
59 member who is divorced and who has previously filed with the retirement board a domestic
60 relations order which has been entered by the probate court and provides for the option to be
61 elected by the member; provided further, election to receive payments under this section shall
62 not be valid unless it is accompanied by the signature of the member and the member's spouse
63 indicating that each understands that the election is irrevocable, that they have received detailed
64 information regarding the election from the retirement board, that they have been advised by the
65 retirement board to seek professional advice from attorneys, tax advisors, actuaries and other
66 professionals prior to making the election, and that they are prohibited from bringing any action
67 or making any claim against the retirement board, its members, employees and agents, arising
68 from the member's election to receive benefits under this section.

69 (e) The Public Employee Retirement Administration shall prepare and provide to
70 retirement boards for the benefit of members considering electing payments under this section,
71 detailed information regarding, among other things, the differences between the value of
72 payments and eligibility for benefits under this section and those under sections 7 and 12 of this
73 chapter, the irrevocability of the election, and the advisability of seeking professional guidance
74 from attorneys, tax advisors, actuaries and other professionals.

75 The retirement board shall provide the member and the member's spouse, when
76 applicable, with detailed information regarding the election of receiving benefits under this
77 section in order for the member and spouse to make an informed decision regarding said
78 election. Such information shall include that prepared and provided by the Public Employee
79 Retirement Administration Commission.

80 (f) If the member dies after receiving the first payment under this section, then the
81 surviving spouse of such member shall receive the payments the member would have received
82 had the member survived. In the event there is no surviving spouse of such member or such
83 surviving spouse dies, then the payments the member or surviving spouse would have received
84 shall be paid for the benefit of such surviving minor children to a legally appointed guardian.
85 Payments to the surviving minor children of the member, or to a member's child reaching the
86 age of eighteen unless physically or mentally incapacitated from earning on the date of death of
87 the member, or if a full-time student upon reaching the age of 22, or on the date a child ceases to
88 be a full-time student, or upon the child's marriage, whichever first occurs, or upon death, shall
89 cease. The word "child" shall include a legally adopted child of the deceased member. The
90 words "full-time student" shall mean a child who is in full-time attendance in an accredited
91 educational institution offering full-time courses of study equivalent to or higher than secondary
92 school study. The words "accredited educational institution" shall mean any school, college or
93 university that is licensed, approved or accredited, as the case may be, in the state in which it is
94 located.

95 (g) The member shall receive such payments for a period of five years from the date the
96 member's retirement allowance became effective under section 7, whereupon the member's right
97 to such payments shall cease, and any rights under this chapter, chapter 32A and chapter 32b
98 shall be forfeited.

99 Payments provided for under this chapter shall be due and payable for the month on the
100 last day of each month during the continuance of such payments. The yearly amount of any such
101 payments shall be computed to the nearest cent which makes such amount an integral multiple of
102 twelve cents. The amount of each full monthly payment shall be one twelfth of the corresponding

103 yearly amount and the first such full payment shall be due and payable on the last day of the
104 month following the month in which falls the date as of which such disability allowance under
105 section 7 would have become effective. If such effective date is a day other than the last day of
106 the month in which it falls, a pro rata payment shall be allowed for the period following such
107 date and ending with such last day. No payment shall be made for any period prior to the day
108 next following the date for which such member last received regular compensation for his
109 employment in the public service. A retirement board may require a member entitled to receive
110 such payment to designate a financial institution to which shall be directly deposited payments
111 under this section.

112 (h) The provisions of section 8 shall not apply to a member receiving payments under this
113 section.