

# SENATE . . . . . No. 2494

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Senate, April 26, 2018 -- Text of amendment (3) (offered by Senator Feeney) to the Ways and Means amendment (Senate, No. 2481) to the House Bill making appropriations for the fiscal year 2018 to provide for supplementing certain existing appropriations and for certain other activities and projects

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## The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court  
(2017-2018)

1 by inserting after section 36 following section:-

2 SECTION 36A. (a) Words used in this section shall have the same meanings as those  
3 provided in chapter 32 of the General Laws unless the context clearly requires otherwise;  
4 provided, however, that “trial court reporter” shall mean the full-time position of court reporter  
5 in the trial court of the commonwealth.

6 (b) Notwithstanding chapter 32 of the General Laws or any other general or special law  
7 to the contrary, the state board of retirement shall establish and implement a retirement incentive  
8 program for trial court reporters as set out in this section.

9 An individual shall be eligible for the trial court reporter retirement incentive program if  
10 the individual is: (i) employed as a trial court reporter or on an authorized leave of absence from  
11 the position of trial court reporter, as certified by the trial court to the state retirement board and  
12 as of the effective date of this section and through the date of retirement established in subsection  
13 (c); (ii) a member in service of the state employees’ retirement system pursuant to clause (i) of  
14 paragraph (a) of subdivision (1) of section 3 of chapter 32 of the General Laws as of the effective

15 date of this section; (iii) classified in Group 1 of the state employees' retirement system pursuant  
16 to paragraph (g) of subdivision (2) of said section 3 of said chapter 32 as of the effective date of  
17 this section; (iv) eligible to either: (A) receive a superannuation retirement allowance pursuant  
18 to subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter  
19 32 as of the date of retirement established in said subsection (c); or (B) would be eligible for  
20 such retirement allowance as of the date of retirement established in said subsection (c) if the  
21 incentive is awarded; (v) not already retired under said chapter 32 or otherwise separated from  
22 service from employment with the commonwealth; and (vi) file a timely correctly completed  
23 application with the board pursuant to said subsection (c).

24 A trial court reporter shall not be eligible to receive any benefit from the trial court  
25 reporter retirement incentive program if the trial court reporter: (i) receives compensation funded  
26 from a capital appropriation, federal grant or trust as each is defined in section 1 of chapter 29 of  
27 the General Laws as of the filing date for the application pursuant to subsection (c); (ii) is a  
28 member of the state employees' retirement system who, as of the effective date of this section, is  
29 not contributing to the retirement system or has not completed reinstatement pursuant to section  
30 105 of said chapter 32.

31 A trial court reporter's eligibility for the trial court reporter retirement incentive program  
32 under this section, and determinations including, but not limited to, creditable service, the  
33 amount of retirement allowance, group classification and the processing of applications filed  
34 shall be made by the state board of retirement.

35           A trial court reporter eligible under this section, shall not utilize the spousal benefit  
36 established in section 322 of chapter 149 of the acts of 2004 in combination with the benefit  
37 options provided in subsection (d).

38           (c) Notwithstanding section 5 of chapter 32 of the General Laws, the state board of  
39 retirement shall receive an eligible trial court reporter's application for retirement not later than  
40 June 1, 2018 in order for the trial court reporter to be eligible to receive the retirement benefit  
41 provided in this section. The retirement date requested in an eligible trial court reporter's  
42 application shall be June 30, 2018. The application for retirement may be delivered to the board  
43 in person, by mail or in any other manner as the board may approve, including by electronic  
44 means. The application of the retirement incentive provided by this section shall not be deferred  
45 to a later date. Once the effective date of atrial court reporter's retirement has occurred, an  
46 employee qualifying under this section shall not withdraw the trial court reporter's retirement  
47 application that has been filed and shall not be authorized to make any changes to the retirement  
48 application or option selection unless otherwise authorized by the state board of retirement.

49           (d) The state board of retirement shall credit a trial court reporter with an additional  
50 retirement benefit pursuant to this section if a trial court reporter otherwise meets the  
51 requirements of the program. Each trial court reporter shall request to receive a combination of  
52 years of creditable service and years of age, in full-year increments; provided, however, that the  
53 sum of the years of creditable service and years of age shall not be greater than 5 years, as  
54 determined by the state retirement board, to determine the trial court reporter's superannuation  
55 retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of  
56 the General Laws.

57 Notwithstanding the credit, the total normal yearly amount of the retirement allowance,  
58 as determined pursuant to said section 5 of said chapter 32, of a trial court reporter who retires  
59 and receives the retirement incentive program benefit shall not exceed  $\frac{4}{5}$  of the average annual  
60 rate of the trial court reporter's regular compensation as determined by section 5 of said chapter  
61 32.

62 A trial court reporter shall not utilize the incentive program under this section to qualify  
63 for any other rights or benefits pursuant to chapter 32 of the General Laws. A trial court reporter  
64 that retires and receives an additional retirement benefit pursuant to this section shall be  
65 considered retired for superannuation pursuant to said chapter 32 and shall be subject to said  
66 chapter 32. A married trial court reporter who retires and receives an additional benefit pursuant  
67 to this section shall be subject to the requirements of the second paragraph of subdivision (1) of  
68 section 12 of said chapter 32.

69 Notwithstanding paragraph (a) of subdivision (2) of section 5 of chapter 32 of the  
70 General Laws, an eligible trial court reporter retiring under the trial court reporter retirement  
71 incentive program who has served in more than 1 group shall receive a retirement allowance as if  
72 the trial court reporter served only as a Group 1 employee for the entire length of state service  
73 and shall not receive a retirement allowance consisting of prorated benefits based upon the  
74 percentage of total years of service that the trial court reporter rendered in each group.

75 Paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws shall  
76 apply to the creditable service added and the increased retirement allowances derived as a result  
77 of the additional years of service or age provided by this section.

78 (e) If requested, the state board of retirement shall provide retirement counseling to trial  
79 court reporters who apply to retire under the trial court reporter retirement incentive program.  
80 Counseling by the board shall include, but not be limited to: (i) a full explanation of the  
81 retirement benefits provided by the trial court reporter retirement incentive program; (ii) a  
82 comparison of the expected lifetime retirement benefits payable to a trial court reporter under the  
83 retirement incentive program and pursuant to chapter 32 of the General Laws; (iii) an  
84 explanation of the election of a retirement option pursuant to section 12 of said chapter 32; (iv)  
85 restrictions on employment after retirement through the trial court reporter retirement incentive  
86 program; (v) laws relative to the payment of cost-of-living adjustments to the retirement  
87 allowance; and (vi) the effect of federal and state taxation on retirement income. The group  
88 insurance commission shall provide counseling regarding the provision of health care benefits  
89 pursuant to chapter 32A of the General Laws. Each trial court reporter shall sign a statement that  
90 the trial court reporter has received counseling or elected not to receive counseling prior to the  
91 approval by the board of the trial court reporter's application for superannuation benefits and the  
92 additional benefit provided under this section.

93 (f) Pursuant to section 98 of chapter 32 of the General Laws, the state treasurer through  
94 the state retirement board may make advance payments in an amount not to exceed 50 per cent  
95 of the initial benefit payment of retirement allowance actually due and under any terms and  
96 conditions the state board of retirement may prescribe to a trial court reporter who is eligible for  
97 retirement under the retirement incentive program and who does not receive a retirement  
98 allowance within 90 days after the effective date of retirement. Section 91 of said chapter 32  
99 shall not apply for calendar year 2018 to any previously retired trial court reporters of the state  
100 board of retirement engaged to implement this section.

101 (g) Notwithstanding any general or special law or collective bargaining agreement or  
102 other employment contract to the contrary and in consideration of the benefits conferred in this  
103 section, a trial court reporter who elects to retire under this section and is eligible to receive a  
104 payment in lieu of accrued vacation time, unused sick leave or other benefit under the collective  
105 bargaining agreement or other employment contract shall receive payment by September 1, 2018  
106 A trial court reporter who elects to retire under this section shall sign a statement that the trial  
107 court reporter has agreed to receive the payment according to the schedule outlined in this  
108 section prior to the approval of the trial court reporter's application for superannuation benefits  
109 and the additional benefit provided by this section by the state board of retirement.

110 The board shall deny an application for the retirement incentive program under this  
111 section by a trial court reporter who belongs to a bargaining unit for which a collective  
112 bargaining agreement inconsistent with this section is in effect at the time of the application  
113 unless the employee organization representing the trial court reporter has filed with the board and  
114 the secretary of administration and finance a statement waiving any inconsistent provisions of  
115 the agreement on behalf of all members of the bargaining unit who file applications for the  
116 retirement incentive program under this section.

117 (h)(1) Notwithstanding section 91 of chapter 32 of the General Laws, a trial court  
118 reporter retired under this section shall not be reemployed in the service of the commonwealth,  
119 whether as a consultant, an independent contractor or a person whose regular duties require time  
120 devoted to the service of the commonwealth, within 30 days after the date of their retirement. A  
121 member who retired under the trial court reporter retirement incentive program shall be eligible  
122 for reinstatement under section 105 of said chapter 32.

123           (2) If a trial court reporter approved for the trial court reporter retirement incentive  
124 program under this section qualifies for a subsequent retirement under section 105 of chapter 32  
125 of the General Laws, the additional combination of years of creditable service and years of age  
126 applied herein shall not be applied in any subsequent retirement calculation pursuant to said  
127 section 105 of said chapter 32.

128           (i) Notwithstanding this section, an otherwise eligible trial court reporter may, in the  
129 alternative, apply to retire pursuant to section 5 or section 10 of chapter 32 of the General Laws  
130 without the benefit of the trial court reporter retirement incentive program; provided, however,  
131 that application for such retirement shall be made under subsection (c).

132           (j) The public employee retirement administration commission shall conduct an actuarial  
133 analysis of the impact to the commonwealth's unfunded pension liability attributable to the  
134 retirement incentive provided in this section. The analysis shall be filed with the house and  
135 senate committees on ways and means, the executive office for administration and finance and  
136 the state retirement board not later than December 31, 2018. The trial court shall be responsible  
137 to the state employees' retirement system for funding any additional pension liability attributable  
138 to the retirement incentive provided in this section. Funding shall occur pursuant to a schedule  
139 established by the actuary and the state retirement board.”