

# HOUSE . . . . . No. 59

Message from His Excellency the Governor recommending legislation relative to providing retiree healthcare benefits reform. Public Service. February 12, 2013.

## The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT

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DEVAL L. PATRICK

GOVERNOR

TIMOTHY P. MURRAY

LIEUTENANT GOVERNOR

February 12, 2013.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislation, entitled "An Act Providing Retiree Healthcare Benefits Reform."

The cost of retiree health benefits for public employees in Massachusetts has resulted in an unfunded benefit liability that is estimated to be over \$40 billion for the state and municipalities combined. Addressing the growing cost and unfunded liability of state and municipal retiree health care is in the best interests of the Commonwealth, taxpayers and public employees.

This legislation implements the recommendations of the Commission to Study Retiree Healthcare and Other Non-Pension Benefits to reform the structure of retiree healthcare provided by state and local governments to make it more equitable and sustainable. The proposed reforms will reduce the costs of these benefits in order to ensure that providing contributions to retiree healthcare coverage will be sustainable for the future, based on existing policy benchmarks for fiscal sustainability, while maintaining the state's commitment to high quality health care for employees and retirees. The recommendations take into account the fact that under the Affordable Care Act, qualified individuals whose employer-subsidized insurance is not considered affordable will become eligible for federal subsidies to offset the cost of purchasing insurance through a Health Insurance Exchange.

This legislation proposes to address these objectives by implementing the following changes for contributions to future retiree health care benefits provided by both the State and municipalities:

- Increasing the minimum years of service requirement from 10 to 20 years
- Increasing the minimum age for eligibility to 60 (for Group 1), 55 (for Group 2) and 50 (for Group 4)
- Prorating benefits on a scale from 50% premium contribution after 20 years to the maximum current retiree benefit (80% of premium for State retirees) at 30 years
- Exempting current retirees and certain employees who are nearing retirement age from the reforms
- Exempting future ordinary disability retirees from the reform until the 2014 Affordable Care Act exchange is available. At that time, ordinary disability retirees shall receive a 50% premium contribution for 10 to 20 years of service. Beyond 20 years, prorating will apply.
- Providing future surviving spouses with a minimum 50% employer premium contribution

The potential savings from this proposed reform is estimated to be between \$15 billion and \$20 billion for state and local governments over the next 30 years.

I respectfully request your prompt enactment of this legislation.

Respectfully submitted,



DEVAL L. PATRICK,  
*Governor.*

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act providing retiree healthcare benefits reform.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to lower forthwith the unfunded liability of state and municipal governments for retiree healthcare benefits, therefore, it is hereby declared to be an emergency law, necessary for the 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. Section 2 of chapter 32A of the General Laws, as amended by section 34 of  
2 chapter 224 of the acts of 2012, is hereby further amended by adding the following subsection:-

3 (j) "Qualified retiree," a person who was an employee after January 1, 1956, is receiving  
4 a retirement allowance from a system, as defined in section 1 of chapter 32 and who is eligible  
5 for contributions to group health care coverage under this chapter, including retirees receiving a  
6 retirement allowance from the optional retirement plans of participating retirees under section 40  
7 of chapter 15A, but excluding retirees receiving a retirement allowance from any plan designed  
8 specifically to comply with the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101-  
9 508), as amended.

10 (l) An individual who receives a superannuation retirement from a position classified as  
11 Group 1 under section 3 of chapter 32 shall not be a qualified retiree unless the individual is at  
12 least 60 years old. An individual who receives a superannuation retirement from a position  
13 classified as Group 2 under section 3 of chapter 32 shall not be a qualified retiree unless the  
14 individual is at least 55 years old. An individual who receives a superannuation retirement from a  
15 position classified as Group 3 under section 3 of chapter 32 shall not be a qualified retiree unless  
16 the individual is at least 50 years old. An individual who receives a superannuation retirement  
17 from a position classified as Group 4 under section 3 of chapter 32 shall not be a qualified retiree  
18 unless the individual is at least 50 years old. In addition, a retired employee shall not be a

19 qualified retiree for purposes of this chapter unless the retired employee has received a minimum  
20 of 20 years of creditable service.

21 (2) A retired employee shall not be considered a qualified retiree unless the individual  
22 was employed by the public employer at the time of retirement, but this requirement shall not  
23 apply to retired employees with at least 25 years of creditable service if they apply for retirement  
24 within 5 years after leaving public employment or to retired employees with at least 20 years of  
25 creditable service if they are enrolled in Medicare parts A and B.

26 (3) The requirements of subparagraphs (1) and (2) of this definition shall not apply to (a)  
27 individuals who retired before July 1, 2013; (b) employees and former employees who, on July  
28 1, 2013, are within 5 years of eligibility for superannuation retirement under chapter 32 and have  
29 received a minimum of 20 years of creditable service; (c) employees and former employees  
30 who, on July 1, 2013, are within 5 years of eligibility for Medicare and have received a minimum  
31 of 9 years of creditable service; (d) individuals who are members of the teachers retirement  
32 system or the State-Boston retirement system who participate in the alternative superannuation  
33 retirement benefit program established under subsection 4 of section 5 of chapter 32 and are at  
34 least 57 years old and eligible for a retirement benefit of 80 per cent; (e) individuals receiving an  
35 accidental disability retirement under section 7 of chapter 32; or (f) individuals receiving an  
36 ordinary disability retirement under section 6 until access to healthcare benefits through a Health  
37 Insurance Exchange becomes available to qualified individuals under the Patient Protection and  
38 Affordable Care Act, Public Law 111-148. Individuals in these categories, upon retirement,  
39 shall be considered qualified employees for purposes of this chapter.

40 SECTION 2. Section 8 of said chapter 32A, as appearing in the 2010 Official Edition, is  
41 hereby amended by striking out the first paragraph and inserting in place thereof the following 4  
42 paragraphs:-

43 For policies of group life insurance and accidental death and dismemberment insurance,  
44 and group health insurance purchased by the commission in accordance with sections 4, 5 and  
45 10C, the commonwealth, on behalf of active employees and their dependents shall contribute not  
46 less than 75 per cent of the total monthly premium or rate applicable to said coverages.

47 For policies of group life insurance and accidental death and dismemberment insurance,  
48 and group health insurance purchased by the commission in accordance with sections 4, 5 and  
49 10C, the commonwealth, on behalf of qualified retirees and their dependents, shall contribute not  
50 less than 50 per cent of the total monthly premium or rate applicable to said coverages and the  
51 qualified retirees on behalf of themselves or themselves and their dependents shall contribute the  
52 remaining 50 per cent of the total monthly premium or rate. For purposes of this section,  
53 "maximum available benefit" shall mean the percentage of the total monthly premium or rate  
54 paid by the commonwealth to qualified retirees with a minimum of 30 years of creditable

55 service. The commonwealth shall contribute an increased amount of the total monthly premium  
56 or applicable rate according to the following schedule:

57 (a) Qualified retirees with a minimum of 20 years of creditable service shall be eligible to  
58 receive a minimum of 50 per cent of the total monthly premium or applicable rate.

59 (b) Qualified retirees with a minimum of 23 years of creditable service shall be eligible to  
60 receive a minimum of 50 per cent of the total monthly premium or applicable rate, plus 1/3 of the  
61 difference between 50 per cent and the maximum available benefit.

62 (c) Qualified retirees with a minimum of 27 years of creditable service shall be eligible to  
63 receive a minimum of 50 per cent of the total monthly premium or applicable rate, plus 2/3 of the  
64 difference between 50 per cent and the maximum available benefit.

65 (d) Individuals receiving an ordinary disability retirement under section 6 of chapter 32  
66 who have received a minimum of 10 years of creditable service shall be eligible to receive a  
67 minimum of 50 per cent of the total monthly premium or applicable rate.

68 (e) Notwithstanding clauses (a) through (d), qualified retirees who are not subject to the  
69 requirements of subparagraphs (1) and (2) of subsection section (j) of section 2 shall be eligible  
70 to receive the maximum available benefit.

71 An employee who retires after July 1, 2013 and is not a qualified retiree shall be eligible  
72 to receive 50 per cent of the total monthly premium or applicable rate if, by July 1, 2013, the  
73 employee: (i) is at least 50 years old and has completed 15 years of creditable service, or (ii) is at  
74 least 55 years old and has completed at least 10 years of creditable service.

75 The active and retired employees on behalf of themselves or themselves and their  
76 dependents shall contribute the remaining share of the total monthly premium or rate, except,  
77 that upon approval by way of an annual, or more frequent appropriation act, the commonwealth  
78 may contribute more than the percentage indicated above, but less than the entire total monthly  
79 premium or rate. Each appropriation act as may be applicable, shall provide the necessary sum  
80 based upon the estimated monthly cost as required by section 4 and shall describe the ratio of  
81 contribution to be paid by the commonwealth and by the active and retired employees insured  
82 under the aforesaid sections. The description of the ratio may include a condition that if, as a  
83 result of a change in the total monthly premium or rate which occurs during the current or  
84 ensuing fiscal year from a change in a contract between the commission and the insurance carrier  
85 or carriers, the amount of the contribution paid by the active and retired employee and  
86 dependents is to remain unchanged and the difference in the amount thus paid and the total  
87 monthly premium or rate as changed is to be added to, or deducted from as the case may be, the  
88 contribution by the commonwealth. This ratio shall continue until changed by a subsequent  
89 appropriation act, and the aforesaid sum shall also include the commonwealth's contribution of

90 the total monthly premium or rate required for coverages contained in other sections of this  
91 chapter.

92 SECTION 3. The second paragraph of said section 8 of said chapter 32A, as so  
93 appearing, is hereby amended by striking out the second sentence and inserting in place thereof  
94 the following sentence:- With respect to any period of insurance authorized by this chapter which  
95 is in effect for a qualified retiree and dependent, there shall be withheld from each payment of  
96 pension or retirement allowance not more than 50 per cent of the aforesaid total monthly  
97 premium, or there shall be withheld a lesser amount as provided in this section and the most  
98 recent applicable appropriation act.

99 SECTION 4. The first paragraph of section 10 of said chapter 32A, as so appearing, is  
100 hereby amended by adding the following sentence:- A retiree who is not a qualified retiree may  
101 continue all such insurance coverage if the retiree files an application to the commission on a  
102 form prescribed by the rules and regulations of the commission, and makes payment to the  
103 commission for the total monthly premium or rate applicable to the coverage in such manner as  
104 the commission may prescribe.

105 SECTION 5. Section 10C of said chapter 32A, as so appearing, is hereby amended by  
106 striking out, in lines 69 to 71, the words "fifty per cent of the premium for such insurance, and  
107 the commonwealth shall make primary payment of the remaining fifty per cent" and inserting in  
108 place thereof the following words:- the appropriate per cent of the premium for such insurance,  
109 and the commonwealth shall make primary payment of the remaining share.

110 SECTION 6. Section 11 of said chapter 32A, as so appearing, is hereby amended by  
111 striking out, in lines 13 to 14, the words "contributes, pursuant to section eight, on behalf of  
112 retired employees," and inserting in place thereof the following words:- had contributed on  
113 behalf of the deceased employee or retiree as of the date of death, but for the surviving spouse of  
114 an employee or retired employee who died before July 1, 2013, the commonwealth shall  
115 contribute 90 per cent of the cost of the monthly premium or rate applicable to the coverage.  
116 Contributions by the commonwealth under this section shall be.

117 SECTION 7. Section 12 of said chapter 32A, as so appearing, is hereby amended by  
118 inserting, after the first paragraph, the following paragraph:-

119 Notwithstanding the first paragraph of this section, for retired teachers who are qualified  
120 retirees as defined in section 2 of chapter 32B, the commission shall determine a schedule of  
121 contribution ratios consistent with section 5 of chapter 32B. Notwithstanding the first paragraph  
122 of this section, a retired teacher who is not a qualified retiree as defined in section 2 of chapter  
123 32B may continue all insurance coverage to which the retiree is entitled under this section if the  
124 retiree files an application therefor with the commission, and makes payment for the total  
125 monthly premium or rate applicable to the coverage to the commission in such manner as it may  
126 prescribe.

127 SECTION 8. Section 2 of chapter 32B of the General Laws, as amended by section 1 of  
128 chapter 69 of the acts of 2011, is hereby further amended by inserting after the definition of  
129 “political subdivision” the following definition:-

130 “Qualified retiree,” a retired employee who is eligible for contributions to group health  
131 care coverage under this chapter.

132 (1) An individual who receives a superannuation retirement from a position classified as  
133 Group 1 under section 3 of chapter 32 shall not be a qualified retiree unless the individual is at  
134 least 60 years old. An individual who receives a superannuation retirement from a position  
135 classified as Group 2 under section 3 of chapter 32 shall not be a qualified retiree unless the  
136 individual is at least 55 years old. An individual who receives a superannuation retirement from  
137 a position classified as Group 4 under section 3 of chapter 32 shall not be a qualified retiree  
138 unless the individual is at least 50 years old. In addition, a retired employee shall not be a  
139 qualified retiree for purposes of this chapter unless the retired employee has received a minimum  
140 of 20 years of creditable service.

141 (2) A retired employee shall not be considered a qualified retiree unless the individual  
142 was employed by the employer at the time of retirement, but this requirement shall not apply to  
143 retired employees with at least 25 years of creditable service if they apply for retirement within 5  
144 years after leaving public employment or to retired employees with at least 20 years of creditable  
145 service if they are enrolled in Medicare parts A and B.

146 (3) The requirements of subparagraphs (1) and (2) of this definition shall not apply to (a)  
147 individuals who retired before July 1, 2013; (b) employees and former employees who, on July  
148 1, 2013, are within 5 years of eligibility for superannuation retirement under chapter 32 and have  
149 received a minimum of 20 years of creditable service; (c) employees and former employees  
150 who, on July 1, 2013, are within 5 years of eligibility for Medicare and have received a minimum  
151 of 9 years of creditable service; (d) individuals who are members of the teachers retirement  
152 system or the State-Boston retirement system who participate in the alternative superannuation  
153 retirement benefit program established under subsection 4 of section 5 of chapter 32 and are at  
154 least 57 years old and eligible for a retirement benefit of 80 per cent; (e) individuals receiving an  
155 accidental disability retirement under section 7 of chapter 32 or (f) individuals receiving an  
156 ordinary disability retirement under section 6 until access to healthcare benefits through a Health  
157 Insurance Exchange becomes available to qualified individuals under the Patient Protection and  
158 Affordable Care Act, Public Law 111-148. Individuals in these categories, upon retirement,  
159 shall be considered qualified employees for purposes of this chapter.

160 SECTION 9. Section 7 of said chapter 32B, as so appearing, is hereby amended by  
161 striking out, in line 2, the words “or retired employee” and inserting in place thereof the  
162 following words:- employee or qualified retiree.

163 SECTION 10. Section 9 of said chapter 32B, as appearing in the 2010 Official Edition,  
164 is hereby amended by inserting, after the first paragraph, the following 3 paragraphs:-

165 Notwithstanding the first paragraph of this section, for policies of group health insurance  
166 purchased by the appropriate public authority in accordance with this chapter, the governmental  
167 unit, on behalf of qualified retirees and their dependents, shall contribute no less than 50 per cent  
168 of the total monthly premium or rate applicable to said insurance coverage and the qualified  
169 retirees on behalf of themselves or themselves and their dependents shall contribute the  
170 remaining 50 per cent of the total monthly premium or rate. For purposes of this section,  
171 "maximum available benefit" shall mean the percentage of the total monthly premium or rate  
172 paid by the governmental unit to qualified retirees with a minimum of 30 years of creditable  
173 service. The governmental unit shall contribute an increased amount of the total monthly  
174 premium or applicable rate according to the following schedule:

175 (a) Qualified retirees with a minimum of 20 years of creditable service shall be eligible to  
176 receive a minimum of 50 per cent of the total monthly premium or applicable rate.

177 (b) Qualified retirees with a minimum of 23 years of creditable service shall be eligible to  
178 receive a minimum of 50 per cent of the total monthly premium or applicable rate, plus 1/3 of the  
179 difference between 50 per cent and the maximum available benefit.

180 (c) Qualified retirees with a minimum of 27 years of creditable service shall be eligible to  
181 receive a minimum of 50 per cent of the total monthly premium or applicable rate, plus 2/3 of the  
182 difference between 50 per cent and the maximum available benefit.

183 (d) Individuals receiving an ordinary disability retirement under section 6 of chapter 32  
184 who have received a minimum of 10 years of creditable service shall be eligible to receive a  
185 minimum of 50 per cent of the total monthly premium or applicable rate.

186 (e) Qualified retirees who are not subject to the requirements of subparagraphs (1) and (2)  
187 of the definition of qualified retiree in section 2 shall be eligible to receive the maximum  
188 available benefit.

189 An employee who retires after July 1, 2013 and is not a qualified retiree shall be eligible  
190 to receive 50 per cent of the total monthly premium or applicable rate if, by July 1, 2013, the  
191 employee: (i) is at least 50 years old and has completed 15 years of creditable service, or (ii) is at  
192 least 55 years old and has completed at least 10 years of creditable service.

193 A governmental unit shall not reduce the percentage of its contribution to premiums of  
194 qualified retirees from the percentage contributed on January 1, 2013 before January 1, 2016, but  
195 the governmental unit may implement changes in contribution percentage adopted before  
196 January 1, 2013. Reductions in contribution percentage for qualified retirees made after January



197 1, 2016 shall not apply to individuals who retire before the change in contribution percentage  
198 takes effect.

199 SECTION 11. Section 9A of said chapter 32B, as so appearing, is hereby amended by  
200 striking out, in lines 7 and 12, the words "retired employee" and inserting in place thereof, in  
201 each instance, the following words:- qualified retiree.

202 SECTION 12. Said chapter 32B is hereby further amended by striking out section 9B, as  
203 so appearing, and inserting in place thereof the following section:-

204 Section 9B. Upon the death of an employee or a qualified retiree, the surviving spouse  
205 may continue the group general or blanket insurance coverage for himself or his dependents  
206 providing hospital, surgical, medical, dental and other health benefits, until the remarriage or  
207 death of the surviving spouse; provided, that application for this insurance coverage shall be filed  
208 with the appropriate public authority and a method for the payment of premiums shall be  
209 determined in accordance with its rules and regulations. For the surviving spouse of an  
210 employee or qualified retiree who dies after July 1, 2013, the governmental unit shall contribute  
211 not less than 50 per cent of the cost of the premiums, and the surviving spouse shall pay the  
212 remaining cost. A surviving spouse who is enrolled in a governmental unit's insurance coverage  
213 on January 1, 2013 and is contributing a portion of the premium in excess of 50 per cent shall  
214 have the surviving spouse's share of the premium contribution reduced to no more than 50 per  
215 cent. A surviving spouse who is enrolled in a governmental unit's insurance coverage on  
216 January 1, 2013 and is contributing less than 50 per cent of the premium shall continue to  
217 contribute the same per cent of the premium.

218 SECTION 13. Section 9C of said chapter 32B, as so appearing, is hereby amended by  
219 striking out the second paragraph and inserting in place thereof the following paragraph:-

220 For the surviving spouse of an employee or qualified retiree who dies after July 1, 2013,  
221 the governmental unit shall contribute not less than 50 per cent of the cost of the premiums, and  
222 the surviving spouse shall pay the remaining cost. A surviving spouse who is enrolled in a  
223 governmental unit's insurance coverage on July 1, 2013 and is contributing a portion of the  
224 premium in excess of 50 per cent shall have the surviving spouse's share of the premium  
225 contribution reduced to no more than 50 per cent. A surviving spouse who is enrolled in a  
226 governmental unit's insurance coverage on July 1, 2013 and is contributing less than 50 per cent  
227 of the premium shall continue to contribute the same per cent of the premium.

228 SECTION 14. Section 9D of said chapter 32B is hereby repealed.

229 SECTION 15. Section 9D1/2 of said chapter 32B, as so appearing, is hereby amended by  
230 striking out, in lines 11 to 12 and 22, the words "nine D" and inserting in place thereof, in each  
231 instance, the following number:- 9B.

232 SECTION 16. Said section 9D1/2 of said chapter 32B, as so appearing, is hereby further  
233 amended by striking out, in lines 13 to 14, the words "or retired employee" and inserting in place  
234 thereof the following words:- employee or qualified retiree.

235 SECTION 17. Said section 9D1/2 of said chapter 32B, as so appearing, is hereby further  
236 amended by striking out, in line 20, the words "retired employee" and inserting in place thereof  
237 the following words:- qualified retiree.

238 SECTION 18. Section 9G of said chapter 32B, as so appearing, is hereby amended by  
239 striking out the second paragraph and inserting in place thereof the following paragraph:-

240 For the surviving spouse of an employee or qualified retiree who dies after July 1, 2013,  
241 the governmental unit shall contribute not less than 50 per cent of the cost of the premiums, and  
242 the surviving spouse shall pay the remaining cost. A surviving spouse who is enrolled in a  
243 governmental unit's insurance coverage on January 1, 2013 and is contributing a portion of the  
244 premium in excess of 50 per cent shall have the surviving spouse's share of the premium  
245 contribution reduced to no more than 50 per cent. A surviving spouse who is enrolled in a  
246 governmental unit's insurance coverage on January 1, 2013 and is contributing less than 50 per  
247 cent of the premium shall continue to contribute the same per cent of the premium.

248 SECTION 19. Notwithstanding any general or special law to the contrary, an appropriate  
249 public authority that changes its contribution percentages to retiree group health care coverage  
250 under this act shall delay implementation of these changes as to those retirees whose contribution  
251 level is specifically included in a special act that is in effect on the date of implementation of  
252 these changes until the term stated in that act has ended.

253 SECTION 20. The executive office for administration and finance, in consultation with  
254 the division of local services in the department of revenue, the group insurance commission and  
255 the public employee retirement administration commission, shall establish a process to monitor  
256 the continuing fiscal sustainability of state and local retiree health care benefits. The process  
257 shall include (a) periodic analysis of the rate of growth of retiree health care benefit costs and  
258 liabilities and metrics for the sustainable rate of growth in public sector revenue available to pay  
259 for these benefits based on pre-determined information to be supplied by state and local  
260 governments on a regular basis to the division of local services and the public employee  
261 retirement administration commission , (b) a mechanism developed by the executive office for  
262 administration and finance for determining whether the retiree health benefit costs or liabilities  
263 are growing faster than sustainable rates of growth, and (c) a process for notifying local  
264 government officials and legislators if the level of spending is determined to be unsustainable  
265 and for the executive director of the Group Insurance Commission to identify additional cost  
266 saving strategies that would cause the rate of growth for the costs of these benefits and the  
267 liability for these benefits to meet benchmarks for sustainability.