

SECTION 616. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received his pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws; and (vi) shall have filed a written application with the board in accordance with subsection (b).

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

Words used in this act shall have the same meaning as when they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than September 1, 2003. The retirement date requested shall be October 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

To ensure the successful completion of the academic year, employees of the University of Massachusetts and employees of state and community colleges shall file their applications for retirement within the period required in this section, but the retirement date requested shall be December 31, 2003. The president of the University of Massachusetts and the chancellor of higher education may identify job titles which may elect to retire earlier than December 31, 2003. Said president and said chancellor shall each file a complete list of titles and corresponding job title codes with the state board of

retirement not later than January 15, 2003, but no retirement shall be effective earlier than August 29, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is

eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 60 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement. Notwithstanding any special or general law to the contrary, the state board of retirement may employ retired former employees of said board through December 31, 2004, to assist it in the implementation of the retirement incentive program authorized by this section, and in the administration of tasks related thereto.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated.

The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June

30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by November 1, 2003 the total value of compensation of the last pay period prior to October 1, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (j).

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive

program had such positions not been vacated. The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (l) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (l).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for

refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

The board of trustees or the president of the University of Massachusetts shall not create any position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (n) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (n).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before January 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/4 of such payment on July 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006. Each such employee shall sign a statement that he has agreed to receive 1/4 of such payment on July 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section

is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority established pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts Convention Center Authority established pursuant to chapter 190 of the acts of 1982 may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions.