

HOUSE No. 4711

By Representative Fresolo of Worcester and Senator Augustus, petition of John P. Fresolo and others (with approval of the mayor and city council) that the city of Worcester be authorized to grant retirement and medical benefits to firefighter Mark S. Stomski. Public Service.

The Commonwealth of Massachusetts

PETITION OF:

John P. Fresolo	Vincent A. Pedone
Edward M. Augustus, Jr.	James J. O'Day
John J. Binienda	Harriette L. Chandler
Robert P. Spellane	

In the Year Two Thousand and Eight.

AN ACT AUTHORIZING THE CITY OF WORCESTER TO PROVIDE CERTAIN RETIREMENT AND MEDICAL BENEFITS TO FIREFIGHTER MARK S. STOMSKI.

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. Notwithstanding the provisions of any general or
2 special law to the contrary and in order to promote the public good,
3 the retirement board of the city of Worcester shall retire Mark S.
4 Stomski, a firefighter employed by the city of Worcester who, while
5 responding to an alarm at 11 Boyden Street on September 23, 2006,
6 sustained injuries likely to result in his death. The annual amount of
7 pension payable to Mark S. Stomski under this act shall be fixed in
8 an amount equal to the regular rate of compensation which would
9 have been paid had he continued in service as a firefighter in said
10 city at the grade held by him at the time of his retirement, but (a)
11 after he has attained the maximum age for his group, his retirement
12 shall be reduced to the appropriate rate for an accidental disability
13 retirement, treating his retirement years as creditable service for
14 determining the amount of his benefits and (b) the retirement
15 allowances payable to him after he has attained the maximum age
16 for his group shall be increased in the manner provided to all retirees

17 of the city pursuant to any provision of Chapter 32 of the General
18 Laws.

1 SECTION 2. Before taking action under authority of this act, the
2 retirement board of the city of Worcester shall request the state
3 Public Employee Retirement Administration Commission (PERAC)
4 to appoint a medical panel composed of three physicians who shall
5 examine Firefighter Stomski or, if a majority of said retirement
6 board shall agree, forego such examination and review the existing
7 medical records and other relevant information concerning Fire-
8 fighter Stomski. The retirement board of the city of Worcester shall
9 approve a pension for Mark Stomski upon receipt of a report from
10 such medical panel which concludes that Firefighter Stomski is
11 physically incapacitated for further duty as a firefighter, that such
12 incapacity is likely to be permanent and that such injuries are likely
13 to result in his premature death. Such retirement shall become effec-
14 tive as of the date following the last day on which he is entitled to
15 receive regular compensation. Upon the retirement of Mark S.
16 Stomski, the retirement board of the city of Worcester shall forthwith
17 pay to him all amounts standing to his credit in the annuity savings
18 fund of the retirement system of said city. Upon the approval of the
19 pension provided for herein and notwithstanding the provisions of
20 any general or special law to the contrary, including, but not limited
21 to, Section 8 of Chapter 32 of the General Laws, Mark S. Stomski
22 shall not be subject to examination or re-examination by a medical
23 panel or other physician to determine his eligibility or continued eli-
24 gibility for accidental disability retirement benefits as provided in
25 this section or in said Chapter 32.

1 SECTION 3. Upon the death of Mark S. Stomski prior to the
2 maximum age for his group, if his wife at the time of the incident
3 survives him the city of Worcester shall pay to his wife an annual
4 annuity equal to the sum of three-fourths of the amount of the pen-
5 sion payable to him at the time of his death, and \$527.28 annually
6 adjusted for a cost-of-living adjustment for each child of Mark S.
7 Stomski for such time as such child is either under 18 years of age or
8 totally physically or mentally incapacitated from working, or over 18
9 years of age, but under age 22, if a full time student. Upon the death
10 of Mark S. Stomski after the maximum age for retirement for his

11 group, if his wife at the time of the incident survives him, she shall
12 be entitled to the same benefits as other surviving spouses under
13 Chapter 32, as shall their children. In the event of the death of Mark
14 S. Stomski, and if his wife at the time of the incident does not sur-
15 vive him, such allowance shall be paid to the legal guardian for the
16 benefit of any surviving unmarried children, as defined above.

1 SECTION 4. Mark S. Stomski shall be eligible for health insur-
2 ance through the city of Worcester on the same basis as all other
3 retirees and be responsible for the retirees' share of all premiums.
4 Following his retirement, the city of Worcester shall pay for neces-
5 sary and reasonable medical expenses for him due to injuries for
6 which he was retired.

7 (i) Medical care shall first be provided through the health insur-
8 ance provided to retired city of Worcester employees pursuant to
9 Chapters 32B and 150E of the General Laws.

10 (ii) The city of Worcester shall pay to the health care providers all
11 co-payments required by the health insurance policy under which the
12 firefighter is insured. The city of Worcester shall pay to the health
13 care providers all deductibles required by the health insurance policy
14 under which the firefighter is insured. The city of Worcester shall
15 pay to the health care providers the fees and other expenses for
16 authorized services whose costs exceed applicable benefits limits,
17 but whose payment is denied solely because of such applicable bene-
18 fits limit.

19 (iii) Any such payments pursuant to this section shall meet all
20 other eligibility requirements of said health insurance; provided,
21 however, that Mark S. Stomski shall not be required to change health
22 care providers; and provided, further, that any changes made by him
23 in health care providers, and any referrals from current health care
24 providers to health care providers who have not rendered care to him
25 for injury for which he was retired, shall comply with paragraph (i).

1 SECTION 5. Mark S. Stomski shall not have his retirement
2 allowance subject to modification as a result of earnings from alter-
3 native employment; provided, however, that he shall be required to
4 submit earnings reports to the public employee retirement adminis-
5 tration pursuant to Section 91A of Chapter 32 of the General Laws.
6 Mark S. Stomski shall be subject to the limitation of earnings for-

7 mula as set forth in said section 91A, with the ability to earn the
8 amount described in said Section 91A plus an additional \$2,500.00.
9 If he earns in excess of these allowable amounts, the public
10 employee retirement administration shall inform him of the excess
11 amount earned and the amount owed by him to the retirement board
12 of the city of Worcester. The retirement administration shall, in its
13 discretion, require repayment of that amount to said retirement
14 board, or may withhold amounts as it deems appropriate from future
15 retirement allowance payments until the amounts owed to the retire-
16 ment board have been paid in full.

1 SECTION 6. The retirement allowances payable pursuant to this
2 section shall remain subject to all other provisions of Chapter 32 of
3 the General Laws as if they had been granted as accidental disability
4 retirements in the normal course of events pursuant to said Chapter
5 32, except to the extent that said Chapter 32 conflicts with this act.