

November 7, 2023

Via Electronic Mail

The Hon. Michael D. Brady, Chair  
Joint Committee on Public Service  
State House, Room 416-A  
Boston, MA 02133  
Michael.Brady@masenate.gov

The Hon. Kenneth I. Gordon, Chair  
Joint Committee on Public Service  
State House, Room 156  
Boston, MA 02133  
Ken.Gordon@mahouse.gov

**Re: House 2488, An Act Relative to Public Safety Personnel**

Dear Chair Brady and Chair Gordon:

As your committee considers legislation amending Section 91 of Chapter 32 of the Massachusetts General Laws, the return-to-work statute, I write to address House 2488, *An Act Relative to Public Safety Personnel*.

Under the return-to-work statute as currently written, public retirees may return to work for public entities, subject to certain requirements such as limits on earnings and the number of hours worked. The statute reflects the long-held policy that public employees cannot collect a full salary while receiving a pension from a public body.

House 2488 would create an exemption for municipal police officer and firefighter retirees, allowing them to “provide consulting services” to municipalities without adhering to Chapter 32’s hours and earnings limits. Understandably, public safety retirees have specialized expertise and could fill knowledge gaps that may exist within the Commonwealth’s cities and towns. However, this blanket exemption is problematic in that it (1) would allow a particular group of retirees to collect a full public salary and a full public pension; (2) relies on the broad and undefined term “consulting services”; and (3) does not include safeguards or controls. In light of these issues, such an exemption would be an inappropriate use of public funds.

The goal of filling public safety positions can be accomplished without this dramatic change in the law. Public safety employees who want to continue in public service can accept a new public position prior to retiring or, if they have already retired, pause their retirement while serving in a new position. Public policy should not encourage individuals to maximize their income by combining their pensions with earned compensation from public sources. Nor should it spur a public pensioner to secure a post-retirement, full-time position at the state or municipal level.

I am concerned that the proposed exemption is motivated by the dynamics of Group IV classification and retirement, which should not be a catalyst for a change in the law.<sup>1</sup> The proposed exemption conflicts with the public policy underlying the Group IV classification for those in public safety positions. For the employee, the ability to retire “early” due to the public safety danger associated with these positions has the most financial value during the 10-year window between ages 55 and 65. Pausing or deferring one’s retirement in order to continue working in a state or municipal position denies the intended Group IV beneficiary the financial benefit of the early retirement. Yet, continuing to work by “providing consulting services” undermines the public policy that Group IV employees are entitled to a more generous retirement option because of the risks associated with continued work in their public safety positions after age 55.

This leads to my next concern with the bill. It does not define the term “consulting services” or limit it in any way. I am troubled that a potential loophole already exists under current law when public entities hire retirees as vendors or under certain third-party contracts, subject to specified conditions (for example, through a staff augmentation service, as employees of a vendor, or as vendors themselves). In each of these scenarios, the retiree continues to receive their full pension with very loose self-oversight to not exceed the post-retirement hours or earnings limitations. Amending the law to add undefined consulting services will further muddy already murky waters for public entities and retirees, and opens the door to abuse.

The existing laws and rules around public retirees returning to work for a public entity already lack necessary controls and too heavily rely on self-reporting by retirees. With 104 public retirement systems in Massachusetts, there is no efficient, uniform way for a public employer to find out if a potential employee is a retiree. The state has no mechanisms in place to track those public retirees who return to public service, nor their hours or earnings limitations. Conversely, the system puts the onus on retirees to determine whether a post-retirement opportunity falls within an exemption and what rules apply.

In addition, the bill would create a unique exemption to allow Group IV retirees to collect both a full pension and full salary if serving as secretary or undersecretary in the Executive Office of Public Safety and Security. In addition, any retiree employed by the Municipal Police Training Committee (MPTC) or the Department of Fire Services Academy also would be exempt. As you know, I have previously written to the committee expressing my opposition to another bill, House 2546, which creates a single exemption to the statute for the executive director of the MPTC. I reiterate my concerns with the language in House 2488, carving out these unprecedented exemptions.

A valuable next step would be to determine a manner by which state and municipal retirees would (1) only be able to work with public entities as a post-retiree; and (2) have a public entity oversee and monitor their post-retirement public work, rather than having retirees self-police this significant control. These critical missing controls in our current system fail to ensure compliance with the statutory and regulatory limits placed on post-retirees.

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<sup>1</sup> Section 3 of Chapter 32 of the Massachusetts General Laws delineates the retirees classified in Group IV, which includes those who worked as public safety officers.

I urge the committee to proceed carefully on any proposed exemptions to Chapter 32's post-retirement earnings and hours limitations for certain retirees and encourage the committee to look for ways to mitigate the areas of risk that already exist.

Thank you for your consideration. If you have any questions, please do not hesitate to reach out to me at 617-722-8806 or [Jeffrey.S.Shapiro@mass.gov](mailto:Jeffrey.S.Shapiro@mass.gov) or Joshua Giles, Director of Policy and Government, at 617-722-8828 or [Joshua.Giles@mass.gov](mailto:Joshua.Giles@mass.gov).

Sincerely,



Jeffrey S. Shapiro  
Inspector General

cc (by email):

Matthew Gorzkowicz, Secretary, Executive Office for Administration and Finance  
Melissa Pullin, Interim Chief Human Resources Officer, Human Resources Division  
William J. McNamara, Comptroller, Commonwealth of Massachusetts  
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