

SECTION-BY-SECTION ANALYSIS OF CHAPTER 123 OF THE ACTS OF 2000

AN ACT RELATING TO THE CONTRIBUTORY
RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES

Section 1. States that bill is intended and should be construed solely to conform Chapter 32 to federal age-discrimination-in-employment laws. The rule of construction also makes clear that nothing in the bill is intended to deprive any person of any benefit to which he was entitled immediately prior to the effective date of the act.

Section 2. Amends the definition of “Maximum age” to eliminate any maximum for members of Groups 1, 2, and 4, except sets maximum age at 65 for certain public safety positions and other positions identified by the personnel administrator, pursuant to St. 1987, c. 415, § 2, as positions for which age is a bona fide occupational qualification. As to members of Group 3 (state police), it keeps maximum as 55 years of age

Section 3. Allows an employee to become a member of a retirement system notwithstanding the fact that he/she is 65 years of age or older.

Section 4. Allows an appointed state official to become a member of a retirement system notwithstanding the fact that he/she is 65 years of age or older.

Section 5. Allows an elected official to become a member of a retirement system notwithstanding the fact that he/she is 65 years of age or older.

Section 6. Allows any member retired for disability, who then recovers and is restored to active service, to rejoin retirement system notwithstanding the fact that he/she 60 years of age or older.

Section 7. Strikes age-based limitations on employees of the Massachusetts Turnpike Authority and the Massachusetts Housing Finance Agency (MHFA) becoming members of the Turnpike Authority or MHFA retirement systems when those systems became effective.

Section 7A. Strikes a maximum-age restriction on provisional and temporary Boston teachers becoming members of the retirement system after one year of service.

Section 8. Strikes prohibition on remaining in service after attaining maximum age.

Section 9. Allows persons who entered service at ages 60-64 to become members of retirement systems even if over maximum age. Strikes prohibition on becoming a member where employee enters service after attaining age 65. Strikes prohibition on remaining in service after attaining maximum age.

Section 9A. Strikes a maximum-age restriction on persons who may change from Group 1 to Group 2 if their employment duties change so as to bring them within Group 2.

Section 10. Allows an inactive member of a retirement system who is reinstated to a former position or re-enters active service to become an active member of a retirement system, regardless of age.

Section 11. Allows any former member who re-enters service or is reinstated to his/her former position within two years of said separation and who had withdrawn his accumulated deductions to become a member again by paying make-up payments, regardless of age.

Section 12. Repeals obsolete reference to section 28F; section 28F itself was repealed by St.1987, c. 697, § 98.

Section 13. Allows certain members to be reinstated or to re-enter a retirement system without regard to whether they have reached maximum age.

Section 14. Strikes the provision that prohibits a member from transferring from one retirement system to another after reaching maximum age.

Section 15. Strikes the provision that prohibits a former member who reenters service from establishing membership in a retirement system if within two years of reaching maximum age.

Section 16. Strikes provision that freezes retirement allowance levels for members who receive special permission to work beyond maximum age. Also strikes obsolete provision concerning members in service as of January 1, 1946.

Section 17. Strikes provisions in G.L. c. 32, § 5(1)(c) that prohibit service for more than two years after attaining maximum age and that freeze retirement allowance levels for members who receive special permission to work beyond maximum age. Strikes, as no longer necessary, provisions in § 5(1)(d) that give special permission to elected officials to remain in office after attaining maximum age.

Section 18. Strikes, as no longer necessary, provisions in § 5(1)(f) that require teachers who attain maximum age during school year to obtain special permission to work until end of school year.

Section 19. Strikes, as no longer necessary, provisions in § 5(1)(h) that prevent certain employees of Turnpike from becoming members of retirement system if employees have attained maximum age.

Section 20. Strikes, as no longer necessary, provisions in § 5(1)(k) that prevent certain employees of MHFA from becoming members of retirement system if employees have attained maximum age.

Section 21. Strikes requirement that employees who leave service before attaining at least 10 years of creditable service must, in order to receive return of accumulated deductions, not yet have “attain[ed] mandatory age requirements of this chapter.”

Section 22. Strikes requirement that, to qualify for ordinary disability retirement, member cannot have attained age 55.

Section 23. Guarantees that member who obtains ordinary disability retirement allowance at age 55 or over is not less than if the member had retired for superannuation; this is necessary because a member who obtains ordinary disability retirement allowance while under age 55 already has such a guarantee, due to language in G.L. c. 32, § 6(2)(a).

Section 23A. This section eliminates a maximum-age restriction on persons who may obtain an accidental disability retirement allowance based on the disabling effects of an accident that occurred or hazard that was undergone more than three years earlier.

Section 24. Strikes the provision that requires a member who retired due to accidental disability with less than 10 years of service to have his/her pension benefit reduced, upon attaining age 65, to the lower level paid to persons retired for superannuation.

Sections 24A, 24B, 24C, 24D, 24E. Strike maximum-age restrictions on persons who may obtain a superannuation or termination retirement allowance or a return of their accumulated total deductions.

Section 25. Strikes sections that require members who have attained age 70 to take an annual physical exam at their own expense to determine if they are physically and mentally capable of performing the functions of their positions. These to-be-stricken sections also freeze retirement allowances of persons who work after attaining age 70 at levels that would have been paid had they retired at 70 or at levels that, while taking into account the compensation earned upon attaining age 70, do not take into account the person’s actual age upon eventual retirement.

Section 26. Technical correction; eliminates references to sections stricken by Section 25 of this bill.

Section 27. Technical correction; eliminates references to sections stricken by Sections 25 and 25 of this bill.

Section 28. Strikes G.L. c. 32, § 90H, which requires that when persons working in certain job classifications attain age 65, they annually certify their fitness to continue in service, submit to physical exam if requested by appointing authority, and, upon attaining age 70, take an annual physical exam at their own expense. Also strikes G.L. c. 32, § 90I, which requires certain inspectors, who continue in service upon attaining age 65, to take an annual physical exam at

their own expense, and which freezes such inspectors' eventual retirement allowances at levels that would have been paid had they retired at 65.

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