

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-six

AN ACT AUTHORIZING CERTAIN PUBLIC EMPLOYEES CREDITABLE RETIREMENT SERVICE TIME FOR ACTIVE SERVICE IN THE ARMED FORCES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Paragraph (g) of subdivision (2) of section 3 of chapter 32 of the General Laws is hereby amended by striking out Group 4, as amended by section 52 of chapter 38 of the acts of 1995, and inserting in place thereof the following:-

Group 4. - Division of law enforcement of the department of fisheries, wildlife and recreational vehicles; conservation officer of the city of Haverhill having duties similar to a law enforcement officer of the department of fisheries, wildlife and recreational vehicles; employees of the Massachusetts Port Authority at the General Edward Lawrence Logan International Airport, comprising permanent crash crewmen, fire control men, assistant fire control men; members of police and fire departments not classified in Group 1; any police officer of the Massachusetts Bay Transportation Authority; employees whose regular compensation is paid by the United States from funds allocated to the Massachusetts National Guard and who are regularly and permanently employed under the control of the military department of the commonwealth and whose duties in such employment require substantially all normal working hours and whose continued employment is based upon federal recognition in the Massachusetts National Guard; employees of a municipal gas or electric generating or distribution plant who are employed as linemen, electric switchboard operators, electric maintenance men, steam engineers, boiler operators, firemen, oilers, mechanical maintenance men, and supervisors of said employees who shall include managers and assistant managers; employees of the Massachusetts Port Authority who are employed as licensed electricians, utility technicians, steam engineers, watch engineers, boiler operators, or steam firemen, and supervisors of said employees, at an electrical generating or distribution plant; employees of the department of correction who are employed at any cor-

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rectional institution or prison camp under the control of said department and who hold the position of correction officer, female correction officer, industrial instructor, recreation officer, assistant industrial shop manager, industrial shop manager, assistant to the supervisor of industries, supervisor of industries, senior correction officer, senior female correction officer, supervising correction officer, supervising female correction officer, prison camp officer, senior prison camp officer, supervising prison camp officer, assistant deputy superintendent; employees of the parole board who hold the position of parole officer or parole supervisor; chief of security for the University of Massachusetts medical school or supervising identification agent; employees who hold the position of state hospital steward in the department of correction; the sheriff, superintendent, assistant superintendent, assistant deputy superintendent and correction officers of county correctional facilities; district attorneys, assistant district attorneys who have been employed in such capacity for ten years or more; and the chief fire warden and district fire wardens in the executive office of environmental affairs.

SECTION 2. Paragraph (h) of subdivision (1) of section 4 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of this chapter or any other general or special law, rule or regulation to the contrary, a member in service of a retirement system as defined in section one who is a veteran who served in the armed forces of the United States and who has completed ten or more years of membership service shall be entitled to credit for active service in the armed services of the United States; provided, however, that such active service shall not be credited until such member has paid into the annuity savings fund of such system, in one sum or in installments, upon such terms and conditions as the board may prescribe, makeup payments of an amount equal to the ten percent of the regular annual compensation of the member when said member entered the retirement system; and, provided further that such creditable service shall not be construed to include service for more than four years provided further, that such creditable service shall not be allowed for any period of active service for which said veteran has received credit pursuant to paragraph (h) of subsection (1) of section 4 of chapter thirty-two of the General Laws or for which said veteran receives a federal military pension. This act shall apply to Massachusetts National Guard and Active Reserve personnel, both

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former and present. Creditable service time, both enlisted and commissioned may be applied toward retirement on a ratio of five years guard service or five years active reserve service substitutable for each year of active service.

SECTION 3. For the retirement system of any political subdivision, the provisions of this act shall take effect on the effective date of this act by majority vote of the board of such system and by the local legislative body. For the purposes of this paragraph local legislative body shall mean a town meeting for a town system, the city council subject to the provisions of its charter for a city system, the county commissioners for a county system, the district members for a district system and the governing body of an authority for an authority system. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commissioner.

Members in service of a retirement system eligible for said creditable service under this act shall make application for said creditable service within one hundred and eighty days of being notified by the retirement board of their eligibility after becoming vested in the retirement system, or for currently eligible members, within one hundred and eighty days of the acceptance of this act by the local legislative body.

Terms used in this act shall have the same meaning as those terms defined in section one of chapter thirty-two of the General Laws.

House of Representatives, April 11, 1996.

Passed to be enacted,

Lida L. Holius, Acting Speaker.

In Senate, April 16, 1996.

Passed to be enacted,

Thomas F. Bayle, President.

25 April, 1996.

Approved,

1:17 PM

William F. Weld
Governor.

CITY OF CAMBRIDGE
APR 26 11 57 AM '96

QUIRK AND CHAMBERLAIN, P.C.*Attorneys and Counsellors at Law*

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OF COUNSEL

WILLIAM E. CROWELL, JR.

via facsimile (617) 349-4119
July 8, 1996

Anne C. Leduc, Executive Director
Cambridge Retirement Board
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

**RE: ADOPTION BY LOCAL MUNICIPALITY OF LEGISLATION
WITH ECONOMIC IMPACT REQUIRING LOCAL ADOPTION
BECAUSE OF THE PROVISIONS OF PROPOSITION 2 1/2
OUR FILE NO. 435/7935**

Dear Anne: -

You have asked me to provide an opinion as to the procedural requirement for the local adoption of veteran buyback legislation Chapter 71 of the Acts of 1996.

The Governor signed the bill in May of 1996. At the time of his signature, he did not establish an emergency preamble, therefore, the law cannot be effective until 90 days after he signed same.

Because the bill had an economic impact, the law is only binding upon the state without local adoption. This is because the state cannot mandate legislation on the local cities and towns that carry a cost unless the state agrees to be bound to pay such costs. Therefore, the local municipality must accept the provisions of Chapter 71 of the Acts of 1996 for it to be binding. The legislation has timeframes for notification built in, therefore, in my view, adoption cannot occur until the act becomes law, which in this case would be 90 days after the Governor's signature.

It is conceivable that the municipality's governing body could create a method of adoption that would be in the future. For example, the City Council could vote to accept the provisions of Chapter 71 on the 91st day after its signing. In my view, the council cannot vote to adopt

QUIRK AND CHAMBERLAIN, P.C.

July 8, 1996

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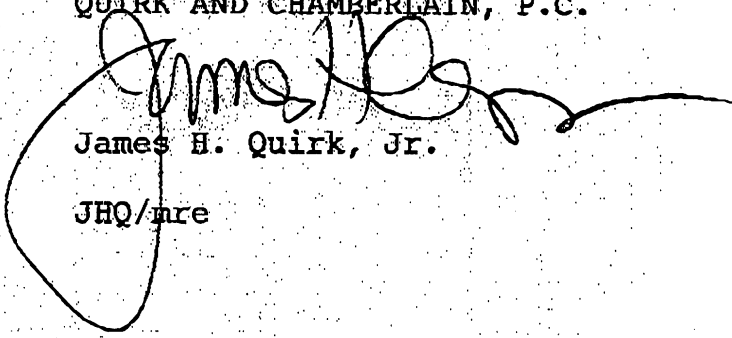
local option legislation before it has been signed by the Governor, as no law exists at the time of the vote to be adopted and, obviously, until it is adopted, it could be subject to modifications that may not be acceptable to the council.

Finally, your question is, given the present action of the council voting to adopt the provisions of Chapter 71 before its signature by the Governor, what action should be taken to insure proper acceptance. The council could vote to ratify its prior action to have acceptance become effective in August 1996 when the 90 days for implementation can take place. This will also allow the Board to act and comply with the notification requirements.

After you have had an opportunity to review this correspondence if you have any questions, please do not hesitate to contact me.

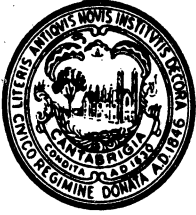
Very truly yours,

QUIRK AND CHAMBERLAIN, P.C.



James H. Quirk, Jr.

JHQ/mre



CAMBRIDGE RETIREMENT BOARD

795 MASSACHUSETTS AVENUE, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4114

Joseph E. Connarton
Chairman

James A. Lindstrom
Ex-Officio

Sheila M. Tobin
Elected Member

Anne C. Leduc
Executive Director

M E M O R A N D U M

TO: MARGARET DRURY, CITY CLERK

FROM: ANNE LEDUC, EXECUTIVE DIRECTOR *ALL*

DATE: JULY 25, 1996

SUBJECT: ACCEPTANCE OF CHAPTER 71 OF THE ACTS OF 1996

This is to advise you that at the scheduled meeting of the Cambridge Retirement Board, held this day the 25th of July, 1996, it was **unanimously voted to accept the provision of Chapter 71 of the Acts of 1996.**

Excerpt of the minutes

Motion made by Sheila Tobin to adopt and accept the provisions of Chapter 71 of the Acts of 1996, "An Act Authorizing certain public employees creditable retirement service time for active service in the armed forces", seconded by James Lindstrom, voted unanimously.

Attested to:

Anne C. Leduc

Comm. & Rpts. City Officers #8 5-386

Communication was received from
Anne C. Leduc, Executive Director,
Retirement Board, transmitting the
acceptance of Chapter 71 of the Acts
Authorizing Certain Public Employees
Creditable Retirement Service Time
for Active Service in the Armed Forces."

In City Council July 29, 1996

*Referred to Order
Number Eight*