

**SENATE . . . . . No. 01912**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Marc R. Pacheco*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the enrollment into the state retirement system of higher education employees in the optional retirement plan.

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PETITION OF:

NAME:

*Marc R. Pacheco*

*Jay Kaufman*

DISTRICT/ADDRESS:

*First Plymouth and Bristol*

*15th Middlesex*

# SENATE . . . . . No. 01912

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By Mr. Pacheco, a petition (subject to Joint Rule 12) (accompanied by bill, Senate, No. [BILL NUMBER]) of Marc R. Pacheco and Jay Kaufman for legislation relative to the enrollment into the state retirement system of higher education employees in the optional retirement plan. Public Service.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act relative to the enrollment into the state retirement system of higher education employees in the optional retirement plan.

*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. Subdivision (1) of Section 4 of Chapter 32 of the General Laws is hereby  
2 amended by inserting at the end thereof the following new paragraph:-

3 (t) Notwithstanding any general or special law to the contrary, any active member of the  
4 optional retirement system established pursuant to subsection (3) of section 40 of Chapter 15A of  
5 the General Laws, or optional retirement plan enrollee on an approved leave of absence, shall  
6 have one opportunity to transfer to the state employees retirement system, governed by Chapter  
7 32 of the General Laws, with creditable service allowed for any such time they were active  
8 participants of the optional retirement program. Any such employee choosing to transfer will  
9 also be allowed creditable service for any years of participation, or portions thereof, in the state

10 employee retirement system immediately prior to their enrollment in the optional retirement  
11 program.

12 (i) Eligibility for creditable service for time spent in the optional retirement program and  
13 service relinquished in the state retirement system by enrollment in the optional retirement  
14 program shall be conditioned upon the payment, in one lump sum or in installments upon such  
15 terms as the state retirement board may provide, of an amount equal to the contributions such  
16 employee would have otherwise paid into the state employees retirement system had they been a  
17 member, plus actuarial-assumed interest for the years spent as an actively contributing member  
18 in the optional retirement plan, plus all employer contributions to the employee's optional  
19 retirement plan account. Any employee in the optional retirement program who elects to  
20 participate in the state retirement system must transfer all assets, or pay an amount equal to all  
21 such assets, accrued under the Massachusetts optional retirement plan to the state retirement  
22 system, providing that such assets shall be credited toward the purchase of creditable service.

23 (ii) Within thirty (30) days of enactment of this legislation, the Department of Higher  
24 Education shall notify active members of the optional retirement program, or those members on  
25 an excused leave of absence of two years or less, of their eligibility for this one-time transfer  
26 opportunity to the state employee retirement system. Eligible employees who choose to transfer  
27 to the state retirement system must make application for such transfer to the state retirement  
28 board within one hundred eighty days (180) days of notification by the state of their eligibility  
29 for this transfer. Any elections under this section shall apply to current and future active  
30 members of the optional retirement plan and those on an approved leave of absence of two years  
31 or less on the effective date of this act, and shall be for one time, only, provided, however, that  
32 any such current or future faculty member who is not tenured on the effective date of this act,

33 shall be permitted to postpone election to participate in the state employee retirement system  
34 until acquisition of tenure, with timelines set out in this section to commence from the date of  
35 such member's tenure acquisition. No further changes in participation, either into the state  
36 retirement plan or out of the optional retirement plan, will be permitted.

37 (iii) Within 30 days of application for transfer to the state retirement system, such employees,  
38 subject to the rules and regulations of the state board of retirement, shall be notified by the state  
39 retirement board of their eligibility for transfer and the cost of such transfer. If eligible, such  
40 members shall have one hundred (180) days from notification to (1) transfer all assets, or an  
41 amount equal to all such assets, held in the optional retirement program and (2) pay in one lump  
42 sum or enter into an installment agreement with the state retirement board to pay any amount  
43 owed for purchase of creditable service not covered by the transfer of assets. Any money  
44 remaining in an optional retirement plan account following the transfer of an employee to the  
45 state retirement system and the complete payment for such transfer, as set forth above, will  
46 belong to the transferred employee and no longer be a part of the Massachusetts optional  
47 retirement system, providing that remaining funds will still operate as pre-tax retirement account  
48 established between the employee and the former plan provider and subject to the rules and  
49 regulations thereof.

50 (iv) Employees who elect to transfer to the state retirement system will no longer be  
51 members active or otherwise in the Massachusetts optional retirement system, but shall  
52 henceforth be required to make contributions to the state employee retirement system at the same  
53 rate the member contributed to the optional retirement plan. The Massachusetts Department of  
54 Higher Education and the State Board of Retirement shall take such actions that are required or  
55 appropriate to ensure that the optional retirement program and the state employees' retirement

56 system, as hereby amended, continue to be tax-qualified plans in accordance with the Internal  
57 Revenue Code of 1986, as amended.