

SENATE, NO. 2363

[Senate, April 8, 2010 - New draft of Senate, No. 1211 reported from the committee on Public Service.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT TO PROMOTE EQUITY IN PENSION BENEFITS.

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 paragraph (b) of subsection (2) of section 40 of chapter
2 15A of the General Laws, or any other general or special law to the contrary, any employee who
3 elected to participate in the optional retirement program provided in said section 40 because the
4 option of marriage was unavailable to that employee prior to May 16, 2004 may elect to
5 withdraw from the optional retirement program and become a member of the state employees'
6 retirement system by filing an application for this election no later than 1 year after the effective
7 date of this act.

8 **SECTION 2.** Any employee who elects to become a member of the state employees'
9 retirement system under section 1 shall take all necessary steps to effect the transfer of all funds
10 held on the employee's account in custodial accounts or payable to the employee under
11 individual or group annuity contracts established under section 40 of chapter 15A of the General
12 Laws to the state employees' retirement system.

13 **SECTION 3.** Eligibility for creditable service shall be conditioned upon the payment, in
14 one lump sum or in installments upon such terms as the state retirement board may provide, of an
15 amount equal to the contributions such member would have otherwise paid into the retirement
16 system had they been a member plus actuarially assumed interest provided that a member must
17 transfer all assets held in the optional retirement plan to the state retirement system and that such
18 assets shall be credited toward the purchase of creditable service.

19 **SECTION 4.** The board of higher education and the state board of retirement shall promulgate
20 regulations concerning this election and transfer of funds within 60 days after the effective date of this
21 act.

22 **SECTION 5.** Notwithstanding any general or special law to the contrary, upon the
23 transfer of funds specified in section 2, any employee who makes the election provided for in
24 section 1 shall participate in the state employees' retirement system under chapter 32 of the
25 General Laws as of the date that employee is considered to have entered service under section 5
26 of this act.

27 **SECTION 6.** For purposes of determining the percentage of regular compensation which
28 shall be withheld under section 22 of chapter 32 of the General Laws for any employee making
29 the election provided for in section 1, the employee shall be considered to have entered service
30 (a) as of the effective date of the employee's appointment if the employee was initially appointed

31 on or after the effective date of the optional retirement program, (b) as of the date the employee
32 became a member in service before electing to participate in the optional retirement program if
33 the employee transferred his accumulated total deductions and interest to the optional retirement
34 program under paragraph (c) of subsection (3) of section 40 of chapter 15A of the General Laws,
35 or (c) as of the date the employee became a member in service before electing to participate in
36 the optional retirement program, if the employee withdrew his accumulated deductions upon
37 electing to participate in the optional retirement program, but pays in a lump sum the amount of
38 total accumulated contributions withdrawn, with interest, within 6 months of making the election
39 provided for in section 1.