

HOUSE No. 3831

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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
7 effective 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
12 General Laws to the state employees' retirement system.

13 Section 3. The board of higher education and the state board of retirement shall
14 promulgate regulations concerning this election and transfer of funds within 60 days after the
15 effective date of this act.

16 Section 4. Notwithstanding any general or special law to the contrary, upon the transfer
17 of funds specified in section 2, any employee who makes the election provided for in section 1
18 shall participate in the state employees' retirement system under chapter 32 of the General Laws
19 as of the date that employee is considered to have entered service under section 5 of this act.

20 Section 5. For purposes of determining the percentage of regular compensation which
21 shall be withheld under section 22 of chapter 32 of the General Laws for any employee making
22 the election provided for in section 1, the employee shall be considered to have entered service
23 (a) as of the effective date of the employee's appointment if the employee was initially appointed
24 on or after the effective date of the optional retirement program, (b) as of the date the employee
25 became a member in service before electing to participate in the optional retirement program if
26 the employee transferred his accumulated total deductions and interest to the optional retirement
27 program under paragraph (c) of subsection (3) of section 40 of chapter 15A of the General Laws,
28 or (c) as of the date the employee became a member in service before electing to participate in
29 the optional retirement program, if the employee withdrew his accumulated deductions upon
30 electing to participate in the optional retirement program, but pays in a lump sum the amount of
31 total accumulated contributions withdrawn, with interest, within 6 months of making the election
32 provided for in section 1.

33 *Effective date of Goodridge v. Department of Public Health, 440 Mass. 309, which was
34 decided on November 18, 2003 and took effect 180 days later.