SENATE DOCKET, NO. 520 FILED ON: 1/16/2013

SENATE . . . . . No. 1228

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer L. Flanagan

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 adoption of the accompanying bill:

An Act prohibiting the Commonwealth from discrimination against those providing special education services to Massachusetts students under the authority and direction of chapter 71B of the General Laws of Massachusetts..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jennifer L. Flanagan	*Worcester and Middlesex*

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SENATE . . . . . No. 1228

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1228) of Jennifer L. Flanagan for legislation to prohibit the Commonwealth from discrimination against those providing special education services to Massachusetts students. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1853* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act prohibiting the Commonwealth from discrimination against those providing special education services to Massachusetts students under the authority and direction of chapter 71B of the General Laws of Massachusetts..

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide state retirement benefits for deserving employees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience., therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public [Emergency Preamble Context].

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. The purpose of this act is to allow the Commonwealth to recognize its moral
2 obligations to provide the same benefits to those who provide special need students educational
3 services under the authority of Chapter 71B of the general laws as it does to those who provide
4 traditional educational services under the direction and supervision of the department of
5 education.

6 Section 2. Section one of Chapter 32 of the general laws as appearing in the 2006th
7 edition of the official acts is hereby amended by striking out all in the definition of term
8 “Commonwealth’s pension liability” after the word “employees” as it appears in line 118 and

9 inserting in place thereof the following "as defined in this chapter and teacher's retirement
10 systems, and to reimburse local retirement systems for cost of living adjustments pursuant to
11 section one hundred and two and including any other pension obligations of a system or of the
12 Commonwealth relative to future pension liabilities which the Commonwealth may assume by
13 general or special law on behalf of any system or employee other than the state employees' and
14 teachers retirements systems, and the Commonwealth's financial obligation which one
15 associated either with the teachers employed by city of Boston or with cost of living adjustments
16 or other benefits for members of the system other than the state employees retirement systems
17 and the teachers retirement system who are not teachers employed by the city of Boston.

18 Section 3. Said section of said chapter of the general laws as appearing in the 2006th
19 edition of the official acts is hereby further amended by inserting in the definition of the term
20 "employee" as it appears after the last sentence in line 251 the following sentence "Employee" as
21 applied to any person in any capacity whose regular compensation is paid by a private school
22 providing special educational services under contract as authorized by the provisions of Ch 766
23 of the statutes of 1972 (C71B) whether employed for a stated term or otherwise who is engaged
24 in duties which require that his or her time be devoted to the services of said school in each year
25 during the ordinary working hours of a regular and / permanent employee provided however, that
26 said persons shall only be considered as employees of the Commonwealth solely for retirement
27 purposes under the authority of Chapter 32 of the general laws.

28 Said employee shall have the choice to join said system at the time of his or her choosing
29 provided that all other requirements of membership are met and provided further, the fact of
30 choosing or not choosing shall have no effect on the private schools of said employee. Said
31 private schools shall remain and be considered as a private independent contractors and shall not
32 be considered in any manner as an agent of the state and in no way shall be liable to any
33 employee for the failure of the state retirement system to meet its obligations to its members.

34 Said employee who is authorized by this act to participate in said retirement system shall
35 contribute into the system at the same rate as a new employee of the Commonwealth is currently
36 directed to contribute and at any amended rate that said new employee may be directed to
37 contribute.

38 Said employee's employer shall likewise contribute its share for any employee
39 participating in said retirement system at a rate of not more than 2.6 percent for each of its
40 employee's participation in said retirement system.

41 Section 4. Said section of said chapter is hereby further amended by inserting in the
42 definition of "Head of his department" as it appears after the last sentence in line 288 the
43 following sentence, "Head of Department" or other similar phrase when used to denote the
44 authority having the power to apply for the retirement of any member or the institution of any
45 action against him shall mean the state retirement board or its state designee in administering the

46 provision of this chapter to those authorized to receive its benefits under section 2 of this act as
47 employees of a private school providing special educational services to special needs students
48 under the authority of Chapter 71B of the General Laws.

49 Section 5. Said section of said chapter is hereby further amended by inserting the
50 definition of "prior" service or "credible" service as it appears after the last sentence in line
51 369, the following sentence, :The effective operational date of Chapter 766 statute in 1972
52 (chapter 71B) shall be initial date in recognizing the "prior" or "credible" service recognized and
53 established by the provisions of this act.

54 Section 6. This act shall take effect upon its passage.