

SENATE NO. 1672

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 15A of the
2 General Laws, or any other general or special law to the contrary, any employee who elected to
3 participate in the optional retirement program provided in said section 40 because the option of
4 marriage was unavailable to that employee prior to May 16, 2004* may elect to withdraw from the
5 optional retirement program and become a member of the state employees' retirement system by filing
6 an application for this election no later than 1 year after the effective date of this act.
- 7 Section 2. Any employee who elects to become a member of the state employees' retirement system
8 under section 1 shall take all necessary steps to effect the transfer of all funds held on the employee's
9 account in custodial accounts or payable to the employee under individual or group annuity contracts
10 established under section 40 of chapter 15A of the General Laws to the state employees' retirement
11 system.

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

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

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

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