

# MEMORANDUM #40, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
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## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Same Sex Marriage Option Change (Section 55 of Chapter 176 of the Acts of 2011)

DATE: December 15, 2011

Section 55 of Chapter 176 of the Acts of 2011 permits a retiree to change his or her option to Option C in certain, limited circumstances involving same sex marriage. A qualifying retiree has a very small window in which to elect this option change, so retirement boards must act swiftly in notifying members and implementing this section of the new law. A copy of Section 55 of Chapter 176 of the Acts of 2011 is attached to this memorandum.

In order to be eligible to change his or her option to C, a retiree must have:

- retired before May 17, 2004;
- picked Option A or B upon retirement;
- entered into a same sex marriage between May 17, 2004 and May 17, 2005.

If a retiree meets the above three criteria, he or she may change his or her option to Option C. **This section of the law becomes effective on February 16, 2012 and effected retirees must make an election of option change by July 1, 2012.**

Retirement boards should immediately notify **all** retirees of this section of the statute, and the time frame during which a retiree must act. A sample notice to retirees is attached for your convenience. If a retiree decides to change his or her option, the change in option shall be effective from the date of retirement going forward. The retirement board has 180 days to implement the change once the election is made. Because this change of option may result in overpayments having been made to such members under Option A or B, the Board shall make appropriate adjustments or arrangement for appropriate repayments upon such terms and conditions as the Board may prescribe.

Finally, this section of the statute also applies to the surviving spouse of such a retiree. If a member who met the criteria outlined above has since died, the surviving spouse may ask that the option be changed to C. The spouse must also make the option change selection by July 1, 2012, and make arrangements for appropriate repayments as prescribed by the Board. The spouse changing the election would then be entitled to an Option C survivor allowance. Locating an eligible surviving spouse who qualifies for this section may be difficult, but retirement boards should make all reasonable efforts to identify and notify these surviving spouses by contacting the deceased retiree's estate and/or next of kin.

Please note that any option change made by a qualifying retiree is final and irrevocable. Any subsequent attempt to

change the option by an otherwise qualifying retiree will be considered null and void. Qualifying retirees are strongly encouraged to seek professional legal and financial guidance before making a decision to change an option selection because of the finality of the decision.

We trust the foregoing will be of some assistance to you.

Attachments