840 CMR: PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

840 CMR 13.00. ROLLOVERS FOR SERVICE PURCHASES AND BUYBACKS

840 CMR 13.00: Rollovers for Service Purchases and Buybacks

REGULATORY AUTHORITY

M.G.L. c. 7, § 50,
M.G.L. c. 32, § 21.

13.01. Acceptance of Pre-Tax Rollovers from "Eligible Retirement Plans"

The following provisions are intended to ~~implement the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and to~~ enable public employees in Massachusetts to take advantage of the expanded tax-deferred roll-over opportunities permitting the purchase of creditable service from assets held in other tax-deferred retirement plans.

(1) A Retirement Board may accept any portion of an Eligible Rollover Distribution in payment of all or a portion of a member's purchase of service credit or service buybacks pursuant to M.G.L. c. 32, §§1 through 28 and § 105. A Retirement Board may accept an Eligible Rollover Distribution paid directlyto the system in a Direct Rollover. Rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Retirement Board deems appropriate.

(2) The following definitions shall apply to 840 CMR 13.01:

Direct Rollover is a payment from an Eligible Retirement Plan specified bythe member and made directly to the Retirement System.

Eligible Retirement Plan is any program defined in Code Sections 401(a)(31)and 402(c)(8)(B), from which the member has a right to an Eligible RolloverDistribution, as follows:

(a)   an individual retirement account under Code Section 408(a);

(b)   an individual retirement annuity under Code Section 408(b) (other thanan endowment contract);

(c)   a qualified plan under Code Sections 401(a) or 403(a);

(d)   an eligible deferred compensation plan under Code Section 457(b) whichis maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state;

(e)   an annuity contract under Code Section 403(b); and

(f)   a SIMPLE IRA, provided that the rollover contribution is made after the two-year period beginning on the date the distributee first participated in any qualified salary reduction arrangement maintained by the distributee's employer under Code § 408(p)(2), as described in Code § 72(t)(6).

Eligible Rollover Distribution is any distribution of all or any portion of thebalance to the credit of the member from an Eligible Retirement

Plan. An Eligible Rollover Distribution does not include:

(a)   any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and the member's designated beneficiary, or for a specified periodof ten years or more;

(b)   any distribution to the extent such distribution is required under Section401(a)(9) of the Internal Revenue Code ("Code");

(c) any distribution which is made upon hardship of the member; or

(d) the portion of any distribution that is not includible in gross income.

13.02. Acceptance of After-Tax Rollovers from "Qualified Defined Benefit Retirement Plans"

840 CMR 13.02 is intended to implement the provisions of § 822 of the Pension Protection Act of 2006 (PPA) and to enable public employees in Massachusetts to roll-over after-tax amounts from other defined benefit retirement plans qualified pursuant to Code § 401(a) if the Massachusetts retirement system accepts such rollovers.

A Retirement Board may accept direct rollovers of after-tax funds from a qualified defined benefit plan (Code § 401(a) or § 403(b)). If such rollovers are permitted, the after-tax amounts must be accounted for separately. Retirement Boards are not required to accept such transfers.