SENATE DOCKET, NO. 1498 FILED ON: 1/21/2011

SENATE . . . . . No. 1853

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 passage of the accompanying:

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	☐ *[District]* ☐
Patricia D. Jehlen	☐ *[District]* ☐
David M. Torrisi	*14th Essex*

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SENATE . . . . . No. 1853

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1853) of Jennifer L. Flanagan, Patricia D. Jehlen and David M. Torrisi for legislation to prohibit the Commonwealth from discrimination against those providing special education services to Massachusetts students. Education.

The Commonwealth of Massachusetts

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. .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The purpose of this act is to allow the Commonwealth to recognize its moral obligations to provide the same benefits to those who provide special need students educational services under the authority of Chapter 71B of the general laws as it does to those who provide traditional educational services under the direction and supervision of the department of education.

SECTION 2. Section one of Chapter 32 of the general laws as appearing in the 2006th edition of the official acts is hereby amended by striking out all in the definition of term ?Commonwealth?s pension liability? after the word ?employees? as it appears in line 118 and inserting in place thereof the following ?as defined in this chapter and teacher?s retirement systems, and to reimburse local retirement systems for cost of living adjustments pursuant to section one hundred and two and including any other pension obligations of a system or of the Commonwealth relative to future pension liabilities which the Commonwealth may assume by general or special law on behalf of any system or employee other than the state employees? and teachers retirements systems, and the Commonwealth?s financial obligation which one associated either with the teachers employed by city of Boston or with cost of living adjustments or other benefits for members of the system other than the state employees retirement systems and the teachers retirement system who are not teachers employed by the city of Boston.

SECTION 3. Said section of said chapter of the general laws as appearing in the 2006th edition of the official acts is hereby amended by inserting in the definition of the term ?employee? as it appears after the last sentence in line 251 the following sentence ?Employees? as 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 this 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 SECTION 4. Said employee shall have the choice to join said system at the time of his
29 or her choosing provided that all other requirements of membership are met and provided
30 further, the fact of choosing or not choosing shall have no effect on the private schools of said
31 employees. Said private schools shall remain and be considered as a private independent
32 contractors and shall not be considered in any manner as an agent of the state and in no way shall
33 be liable to any employee for the failure of the state retirement system to meet its obligations to
34 its members.

35 SECTION 5. Said section of said chapter is hereby further amended by inserting in the
36 definition of "Head of his department" as it appears after the last sentence in line 288 the
37 following sentence, "Head of department" or other similar phrase when used to denote the
38 authority having the power to apply for the retirement of any member or to institute of any
39 action against him shall mean the state retirement board or its state designee in administering the
40 provision of this chapter to those authorized to receive its benefits under section 2 of this act as
41 employees of a private school providing special educational services to special needs students
42 under the authority of Chapter 71B of the General Laws.

43 SECTION 6. Said section of said chapter is hereby further amended by inserting in the
44 definition of "prior" service or "creditable" service as it appears after the last sentence in line
45 369, the following sentence, "The effective operational date of ch766 statues 1972 (chapter 71B)
46 shall be initial date in recognizing the "prior" or "creditable" service recognized and established
47 by the provisions of this act.

48 SECTION 7. This act shall take effect upon its passage