

# MAINE STATE LEGISLATURE

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OK  
R. of S.

L.D. 1946

(Filing No. S-605)

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 742, L.D. 1946, Bill, "An Act to Establish a Consolidated Retirement Plan in the Maine State Retirement System for Participating Local Districts"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the principal purpose of this legislation is to establish a new consolidated retirement plan for employees of participating local districts in the Maine State Retirement System; and

**Whereas,** the plan will be developed by the Participating Local District Advisory Committee as set forth in this Act; and

**Whereas,** it is in the best interest of the employees of the participating local districts that this committee be appointed and be enabled to complete its work on this plan as soon as possible; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

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Sec. 1. 5 MRSA §12004-I, sub-§78-A is enacted to read:

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<u>78-A. State</u>	<u>Partici-</u>	<u>Not</u>	<u>5 MRSA</u>
<u>Retirement</u>	<u>pating</u>	<u>Autho-</u>	<u>§18802</u>
<u>System</u>	<u>Local</u>	<u>rized</u>	
	<u>District</u>		
	<u>Advisory</u>		
	<u>Committee</u>		

10 Sec. 2. 5 MRSA §18201, first ¶, as enacted by PL 1985, c. 801,  
12 §§5 and 7, is amended to read:

14 A local district may contract for the participation of its  
16 employees in the retirement system under this chapter any time  
18 before the date the board puts into operation the consolidated  
20 retirement plan for participating local districts under chapter  
427. After the effective date of the consolidated plan described  
in chapter 427, a local district may contract for participation  
only in a program provided by the consolidated plan under chapter  
427.

22 Sec. 3. 5 MRSA c. 427 is enacted to read:

24 CHAPTER 427

26 PARTICIPATING LOCAL DISTRICTS

28 CONSOLIDATED PLAN

30 §18801. Plan

32 The board shall establish by rule a consolidated retirement  
34 plan for local districts that contract with the retirement system  
in accordance with section 18804.

36 1. Plan content. Benefits provided by the plan must be  
38 selected from benefits included in chapter 425 or this chapter  
and must include, but are not limited to:

40 A. Service retirement benefits, including:

42 (1) Several plans, with levels of benefits to meet the  
44 needs of various classes of employees and employers; and

46 (2) Portability of benefits when a member changes  
plans or employers;

48 B. Death benefits;

50 C. Disability retirement benefits;

52 D. Compulsory and optional membership requirements; and

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2           E. A defined contribution plan consistent with the United  
3           States Internal Revenue Code.

4  
5           2. Amendments. Any benefit provision selected from chapter  
6           425 or this chapter to be included in the plan that is  
7           subsequently amended is not considered to have been amended for  
8           purposes of the plan until the rule that established the plan is  
9           amended to include the amended version of the benefit provision.

10  
11           3. No reduction of benefits. The level of service  
12           retirement benefits for employees of participating local  
13           districts that adopt the plan may not be reduced with relation to  
14           either benefits based upon service before adoption of the plan or  
15           benefits based upon service after adoption of the plan.

16  
17           4. Implementation of plan. The board, as part of its  
18           rules, shall set the minimum number of local districts that must  
19           contract for participation and the minimum number of members  
20           before the plan is put into operation. The rules must contain  
21           provisions relating to the transition from participation in  
22           chapter 425 to participation in this plan by local districts and  
23           for setting the date when participation of the employees of a  
24           participating local district in this plan begins.

25           5. Disbanded or dissolved local district. The board, as  
26           part of its rules, shall provide for the procedure to be followed  
27           regarding the membership and benefits of employees of a  
28           participating local district that disbands or is dissolved.

29  
30           6. Plan design and amendments. The rules adopted by the  
31           board must be based entirely upon proposals for the consolidated  
32           retirement plan and proposed amendments to the consolidated  
33           retirement plan received from the Participating Local District  
34           Advisory Committee. The board shall adopt as a rule any proposal  
35           received from the Participating Local District Advisory Committee  
36           or return the proposal to the advisory committee with a statement  
37           setting forth the reasons for not adopting the proposal.

38  
39           7. Rule-making procedure. The rules and amendments  
40           established by the board must be adopted in accordance with and  
41           subject to judicial review as set forth in chapter 375,  
42           subchapter II, to the extent chapter 375 is applicable.

43           §18802. Participating Local District Advisory Committee

44  
45           1. Composition; appointment. The Participating Local  
46           District Advisory Committee, referred to in this chapter as the  
47           "advisory committee," is composed of the following 12 members:

48  
49           A. Five voting members who are members of labor  
50           organizations that represent participating local district  
51           organizations that represent participating local district  
52           organizations that represent participating local district

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2 employees, appointed by the Governor after being nominated  
3 by their respective labor organizations as follows:

4 (1) One member nominated by the Maine Teachers  
5 Association;

6 (2) One member nominated by the American Federation of  
7 State, County and Municipal Employees;

8 (3) One member nominated by the Service Employees  
9 International Union;

10 (4) One member nominated by the International  
11 Association of Fire Fighters; and

12 (5) One member nominated by the International  
13 Brotherhood of Teamsters, Chauffeurs, Warehousemen and  
14 Helpers of America;

15 B. Five voting members who represent participating local  
16 districts appointed by the Governor after being nominated as  
17 follows:

18 (1) Three members nominated by the Maine Municipal  
19 Association; and

20 (2) Two members nominated by the Maine School  
21 Management Association;

22 C. One nonvoting member appointed by the Governor; and

23 D. The executive director or the executive director's  
24 designee, to serve as an ex officio nonvoting member.

25 2. Compensation of members. The members of the advisory  
26 committee are not entitled to receive compensation for their  
27 participation in the advisory committee's activities.

28 3. Chair. The executive director, or a designee, shall  
29 serve as chair.

30 4. Term. The terms of the members are as follows.

31 A. Each member, except the initial appointees, shall serve  
32 a term of 5 years.

33 B. A member shall continue to serve after the expiration of  
34 that member's term until a qualified successor is  
35 appointed. The member's continuation as a member does not  
36 change the expiration of that member's term.

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2 C. The term of a member appointed to succeed a member whose  
4 term has expired expires 5 years after the expiration date  
6 of the term of the previous member, regardless of the  
8 effective date of the new appointment. There is no limit to  
10 the number of terms to which a member may be appointed.

12 D. The appointing authority shall appoint a person to fill  
14 a vacancy caused by death, resignation or ineligibility  
16 within 60 days. This appointment is for the unexpired  
18 portion of the term and must be made from a nomination  
20 provided by the organization the former member represented,  
22 as provided by subsection 1. With the agreement of the  
24 member being replaced and of the nominating and appointing  
26 authorities, the member being replaced shall serve until a  
28 replacement is appointed. Otherwise, a vacancy exists until  
30 a replacement is appointed.

32 E. The terms of the initial appointments are as follows.

34 (1) Members who represent participating local district  
36 employees are appointed by the Governor, one each, to  
38 terms of 1, 2, 3, 4 and 5 years.

40 (2) Members who represent participating local  
42 districts are appointed by the Governor, one each, to  
44 terms of 1, 2, 3, 4 and 5 years.

46 F. A member is considered to have resigned if:

48 (1) The member severs the affiliation with the  
50 organization that nominated the member in accordance  
52 with subsection 1; or

54 (2) The member is absent from 3 consecutive meetings  
56 of the advisory committee without good cause as  
58 determined by the advisory committee.

60 5. Transaction of business. The transaction of business by  
62 the advisory committee is governed as follows.

64 A. Seven members constitute a quorum for the transaction of  
66 any business.

68 B. Each member is entitled to one vote.

70 C. Except as provided by subsection 6, 6 affirmative votes  
72 are necessary for the passage of any resolution or any other  
74 action by the advisory committee.

76 6. Proposal for plan design or amendment. The advisory  
78 committee shall present to the board proposals for the  
80 consolidated retirement plan and amendments to the plan. Passage

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2 of any resolution or any other action by the advisory committee  
3 relating to proposals for the consolidated retirement plan or  
4 proposed amendments to the consolidated retirement plan requires  
5 8 affirmative votes.

6 7. Repeal. This section is repealed effective June 30,  
7 1993.

8  
9 **§18803. Assistance by board**

10  
11 1. Staff assistance. The board may authorize the  
12 retirement system staff to give assistance to the advisory  
13 committee.

14  
15 2. Expenses. The board may authorize the payment of  
16 necessary expenses incurred in the operation of the advisory  
17 committee from the funds allocated for that purpose based upon a  
18 budget submitted by the advisory committee.

19  
20 3. Duties of the board. Nothing in this chapter alters the  
21 duties of the board to administer the retirement plan of  
22 participating local districts.

23  
24 **§18804. Local district participation**

25  
26 A local district may contract for the participation of its  
27 employees in the retirement system under this chapter.

28  
29 1. Local districts that are not municipalities. For a  
30 local district that is not a municipality, as defined in Title 1,  
31 section 72, subsection 13, the executive body of the district  
32 must approve participation and must file with the board a duly  
33 certified copy of a resolution or order, with a record of the  
34 vote of the executive body, which must include:

- 35 A. Approval of the participation:
- 36
- 37 B. The benefit plans that are to apply:
- 38
- 39 C. Excluded employees, as required by subsection 3; and
- 40
- 41 D. The name or title of the person authorized to sign the  
42 contract on behalf of the local district.
- 43

44  
45 2. Local districts that are municipalities. For a local  
46 district that is a municipality, as defined in Title 1, section  
47 72, subsection 13, the legislative body of the municipality must  
48 approve participation and must file with the board a resolution  
49 or order, certified by the clerk of the municipality, with a  
50 record of the vote of the legislative body, which must include:

- 51 A. Approval of the participation:
- 52

- 2            B. The benefit plans that are to apply:
- 4            C. Excluded employees, as required by subsection 3; and
- 6            D. The name or title of the person authorized to sign the  
contract on behalf of the local district.

8

10           3. Excluded employees. The local district shall designate  
in its approval any class of employees otherwise provided for by  
local pension provisions who are excluded from membership in the  
plan established under this chapter.

14           4. Date participation begins. The date when the  
participation of the employees of a participating local district  
begins is the first day of July following the date the contract  
is signed. This date is considered the date of establishment for  
a participating local district under section 17101, subsection 3.

20           **§18805. Chief fiscal officer**

22           The chief fiscal officer of a participating local district,  
in order to assist in the administration of the retirement system  
shall:

26           1. Information. Submit to the board whatever information  
the board prescribes about the employees of the participating  
local district relating to participation in the plan; and

30           2. Duties. Cause to be performed whatever duties the board  
prescribes, with respect to the employees of the participating  
local district.

34           **§18806. Alternative benefits**

36           The plan adopted under section 18801 may include benefits  
provided by this section.

38

40           1. Districts with employees covered by the Social Security  
Act. A participating local district with employees covered by  
the United States Social Security Act may provide service  
retirement benefits for employees not covered by a special plan  
which equal 1% of the member's average final compensation  
multiplied by the number of years of membership service. Members  
covered by this benefit shall contribute to the retirement system  
at the rate of 3% of earnable compensation.

48           2. Defined contribution plan. A participating local  
district may provide for the participation of its employees who  
are members of the system under this chapter, in a defined  
contribution plan that is part of the consolidated plan provided  
by section 18801. Employees who choose not to become members



2 under section 18801, subsection 1, paragraph D may also  
3 participate in the defined contribution plan.

4 **Sec. 4. Deadlines.** The following schedule applies to the  
5 implementation of the various provisions of the Maine Revised  
6 Statutes, Title 5, section 18802, concerning the Participating  
7 Local District Advisory Committee.

8  
9  
10 1. All initial nominations to the advisory committee must  
11 be made no later than 30 days following the effective date of  
12 this Act. The Governor shall make the appointments from these  
13 nominees no later than 15 days after receiving the nominations  
14 and shall notify the Executive Director of the Maine State  
15 Retirement System upon making the appointments.

16 2. The executive director shall call the advisory committee  
17 together for its first meeting no later than 30 days after the  
18 completion of appointments.

19  
20 3. The advisory committee shall present its initial  
21 proposal for the consolidated retirement plan specified in Title  
22 5, section 18801, subsection 6, no later than 90 days after its  
23 first meeting.

24  
25 4. The Board of Trustees of the Maine State Retirement  
26 System shall act on the initial consolidated retirement plan  
27 recommendation presented by the advisory committee within 60 days  
28 of its receipt, either by voting to begin the rule-making process  
29 or by returning it to the advisory committee, as provided in  
30 Title 5, section 18801, subsection 6.

31 **Emergency clause.** In view of the emergency cited in the  
32 preamble, this Act takes effect when approved.

34

36

### FISCAL NOTE

37  
38 The consolidation of the approximately 270 participating  
39 local district plans will reduce the administrative costs of the  
40 Maine State Retirement System. However, this will not  
41 significantly affect contributions for state employees and  
42 teachers.'

44

### STATEMENT OF FACT

46

47 The original bill provided for the development and  
48 implementation of a new retirement plan for local districts or  
49 political subdivisions that participate in the Maine State  
50 Retirement System for their employees and provided that the plan  
51 be developed and adopted as a rule by a committee made up equally  
52 of representatives of employers and employees.

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2            This amendment provides that the rule will be adopted by the  
3            Board of Trustees of the Maine State Retirement System based upon  
4            proposals received from the Participating Local District Advisory  
5            Committee. Under this amendment the plan will be based upon  
6            benefits that are selected from the present laws relating to  
7            retirement benefits for participating local districts.

8  
9            The amendment also includes a sunset provision for the  
10           committee provided for in this legislation and sets forth  
11           timetables for appointment of the advisory committee and for the  
12           performance of duties of the advisory committee and the board of  
13           trustees.

14

Reported by Senator Titcomb for the Committee on Aging,  
Retirement and Veterans. Reproduced and Distributed  
Pursuant to Senate Rule 12.  
(3/22/90) (Filing No. S-605)