

MAINE STATE LEGISLATURE

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M
R. 118

L.D. 1810

DATE: 3-22-04

(Filing No. H-790)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1332, L.D. 1810, Bill, "An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

PART A

Sec. A-1. 5 MRSA §18251, sub-§1, as amended by PL 1997, c. 709, §2, is further amended to read:

1. Compulsory membership. Membership is compulsory for all employees persons entering the service of a participating local district after the date of establishment for the participating local district, except as otherwise provided by subsection 2 3; section 18201, subsection 3; ~~section 18252; section 18252-A; or section 18256; or section 18801, subsection 1, paragraph-D.~~

Sec. A-2. 5 MRSA §18251, sub-§2, as amended by PL 1987, c. 739, §§28 and 48, is repealed.

Sec. A-3. 5 MRSA §18251, sub-§§3, 4 and 5 are enacted to read:

3. Optional membership. Membership in the retirement system is optional for the following employees of a participating local district:

2 A. A person in the service of a participating local
3 district on the date of establishment for that participating
4 local district. Once such a person joins the retirement
5 system, membership ceases to be optional for that person
6 under this paragraph;

7 B. An elected official or an official appointed for a fixed
8 term. Special provisions apply to certain officials as
9 follows:

10 (1) Membership of trustees of a water district is
11 governed by Title 35-A, section 6410, subsection 8;

12 (2) Membership of trustees of a sanitary district is
13 governed by Title 38, section 1104; and

14 (3) Membership of trustees of a sewer district is
15 governed by Title 38, section 1252;

16 C. A chief administrative officer of a participating local
17 district, whether appointed for a fixed term or appointed
18 with tenure; and

19 D. A person whose membership is optional under section
20 18252, 18252-A or 18801.

21 4. Delayed election of membership. A person whose
22 membership is optional and who elects not to join the retirement
23 system when first eligible to do so may at any time apply for and
24 be admitted to membership, except as provided in section 18252.

25 A. For an optional member described in subsection 3,
26 paragraph B or C who began membership before January 1,
27 1986, purchase of service credit for the period during which
28 the person was eligible for membership but was not a member
29 of the retirement system is governed by section 18305.

30 B. For other optional members, purchase of service credit
31 for the period during which the person was eligible for
32 membership but was not a member of the retirement system is
33 governed by section 18305-A.

34 5. Reentry. A person whose membership is optional may
35 reenter the retirement system at any time, subject to sections
36 18252 and 18252-A, if applicable. A person who reenters the
37 system may purchase service credit for the time served in
38 eligible service as follows.

39 A. If the person withdrew accumulated contributions at the
40 time of withdrawal, the person, subject to any limitations
41 set forth in section 18252-A, may repurchase that prior
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2 service credit by repaying those contributions pursuant to
3 section 18304.

4 B. For the purchase of time for which the person was not a
5 member:

6
7 (1) For an optional member described in subsection 3,
8 paragraph B or C who began membership before January 1,
9 1986, purchase of service credit for the period during
10 which the person was eligible for membership but was
11 not a member of the retirement system is governed by
12 section 18305; and

13
14 (2) For other optional members, purchase of service
15 credit for the period during which the person was
16 eligible for membership but was not a member of the
17 retirement system is governed by section 18305-A.

18
19 **Sec. A-4. 5 MRSA §18252**, as amended by PL 2003, c. 387, §6,
20 is further amended to read:

21 **§18252. Membership in districts with Social Security coverage**
22 **under Social Security Section 218 agreement**
23

24
25 ~~An--employee~~ A person who is or would be covered by the
26 United States Social Security Act as a result of employment by a
27 participating local district having a so-called "Social Security
28 Section 218 agreement" may elect to join, not to join, to cease
29 contributions to or to withdraw from the retirement system under
30 the following conditions.

31
32 **1. New employees.** A new employee may join the retirement
33 system at the beginning of employment or on any anniversary of
34 the beginning of employment, so long as ~~the--employee~~ that person
35 is still an employee of the participating local district and the
36 district continues to be a participating local district.

37
38 A. Purchase of service credit for the period during which
39 the person was not a member of the retirement system is
40 governed by section 18305-A.

41
42 **2. Employee who is participating member.** ~~An--employee~~ A
43 person who is a participating member of the retirement system may
44 elect to cease contributions to the system and, at ~~the--employee's~~
45 that person's discretion, may withdraw accumulated contributions
46 in accordance with ~~the--procedures--in~~ section 18306.

47
48 **3. Person who has previously ceased contributions.** An
49 employee A person who has previously elected to cease
50 contributions to the retirement system, whether or not

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accumulated contributions have been withdrawn, may choose to rejoin the system at any time under the following conditions.

4 ~~A. If the employee withdrew accumulated contributions and is rejoining the system within 3 years of the date that a refund was paid under section 18306, the employee must repay to the retirement system an amount equivalent to the withdrawn accumulated contributions plus the amount of interest that would be required of any terminated employee who had become reemployed and had elected to rejoin the retirement system and to repay the contributions.~~

12 ~~A-1. If the employee withdrew accumulated contributions and is rejoining the system more than 3 years from the date that a refund was paid under section 18306, the employee may not repay to the retirement system the contributions withdrawn under subsection 2.~~

18 B. The employer must still be a participating local district allowing new membership in the retirement system.

22 C. Purchase of service credit for the period during which the person was not a member of the retirement system is governed by section 18305-A. Repayment of withdrawn accumulated contributions is governed by section 18304.

26 5. **Limit on right to rejoin.** The right of an employee a person to rejoin under subsection 3 is limited to one occurrence.

30 6. **Restoration to service.** If any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is governed by the following.

36 A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits.

40 B. The person may elect to have the service retirement benefit terminated, again become a member of the retirement system and begin contributing at the current rate.

44 (1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

48 (2) When the person again retires, the person is entitled to receive benefits computed on the person's

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2 entire creditable service and in accordance with the
law in effect at the time.

4 C. Upon being restored to service, the person must elect to
6 have benefits either continued or terminated. If written
notification of the person's election is not received by the
8 executive director within 60 days of restoration to service,
10 the person is deemed to have elected the provisions of
paragraph A. The election, regardless of how it is made, is
irrevocable during the period of restoration to services.

12 **Sec. A-5. 5 MRSA §18252-A, sub-§1**, as amended by PL 2003, c.
14 387, §7, is further amended to read:

16 **1. Membership.** An employee of a participating local
district that does not have a so-called "Social Security Section
18 218 agreement" and that has a plan provided by the employer under
section 18252-B may elect to be a member under the retirement
20 system or to be covered under the plan provided by the employer
in accordance with the following.

22 A. ~~An--employee~~ A person hired by a participating local
24 district, or rehired following a break in service, after the
date on which the employer provides a plan under section
26 18252-B must elect at the time of hiring or rehiring whether
to be a member under the retirement system or to be covered
28 under a plan provided by the employer under section 18252-B.

30 (1) If the ~~employee~~ person elects to be a member under
the retirement system, the election is effective as of
32 the date of hire or rehire.

34 (a) ~~An--employee~~ A person who elects to be a
member of the retirement system may later elect to
36 be covered under a plan provided by the employer
under section 18252-B. The ~~employee~~ person who so
elects may, at ~~the--employee's~~ that person's
38 discretion, withdraw accumulated contributions in
accordance with ~~applicable requirements of law and~~
40 ~~rule--and--retirement--system--procedures~~ section
18306.

42 (b) ~~An--employee~~ A person who elects under
44 division (a) to be covered under a plan provided
by the employer under section 18252-B may later
46 elect to again become a member under the
retirement system, unless to so elect would have
48 the effect of requiring the employer, without the
employer's agreement, to make an employer
50 contribution to both the retirement system and the

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plan provided by the employer under section 18252-B.

(c) ~~An--employee~~ A person who elects under division (b) to again become a member of the retirement system may ~~not--pay--contributions--or--pick-up--contributions--or--receive--service--credit--for--the--period--during--which--the--employee--elected--not--to--be--a--member--under~~ , in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of the retirement system. The employee person may, in accordance with section 18304, repay contributions withdrawn under division (a) and may, as permitted under other relevant retirement system law, rule and policy, repay other refunded contributions.

(d) ~~An--employee~~ A person who, having elected to again become a member under the retirement system under division (c), later elects again not to be a member may not thereafter become a member under the retirement system while employed by the same participating local district.

(2) ~~An--employee~~ A person who elects to be covered under a plan provided by the employer under section 18252-B may later elect to become a member under the retirement system.

(a) Membership service credit for ~~an--employee~~ a person joining the retirement system under this subparagraph begins as of the effective date of first contributions or pick-up contributions to the retirement system following ~~the--employee's~~ that person's election under this subparagraph.

(b) ~~An--employee~~ A person who joins the retirement system under this subparagraph may ~~not--pay--contributions--or--have--pick-up--contributions--made--on--or--receive--any--service--credit--for--the--period--during--which--the--employee~~ , in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of the retirement system.

(c) ~~An--employee~~ A person who, having elected to become a member under the retirement system under this subparagraph, later elects again not to be a member may, at the employee's discretion, withdraw

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accumulated contributions in accordance with applicable requirements of law and rule and retirement system procedures and may not thereafter become a member under the retirement system while employed by the same participating local district.

B. An employee of the participating local district who is a member under the retirement system on the date on which the employer provides a plan under section 18252-B may elect to remain a member under the retirement system or to become covered under a plan provided by the employer under section 18252-B.

(1) ~~If the employee that person~~ elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the retirement system by the ~~employee that person~~. An employee A person who elects not to remain a member may, at ~~the employee's that person's~~ discretion, withdraw accumulated contributions in accordance with ~~applicable requirements of law and rule and retirement system procedures~~ section 18306.

(2) ~~An employee A person~~ who elects not to remain a member under the retirement system may later elect to again become a member.

(a) Membership service credit for ~~an employee a person~~ who elects to again become a member under the retirement system under this subparagraph begins as of the effective date of the first contributions or pick-up contributions to the retirement system following ~~the employee's that person's~~ election under this subparagraph.

(b) ~~An employee A person~~ who rejoins the retirement system under this subparagraph may ~~not pay contributions or pick-up contributions or receive service credit for the period during which the employee elected not to be a member under~~ in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of the retirement system. The employee person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the retirement system and the

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plan provided by the employer under section 18252-B.

(c) An-employee A person who, having elected to again become a member under the retirement system under this subparagraph, later elects again not to be a member may, at the-employee's that person's discretion, withdraw accumulated contributions in accordance with applicable-requirements-of-law-and-rule--and--retirement--system--proceedures section 18306 and may not thereafter become a member under the retirement system while employed by the same participating local district.

~~G.--At-no-time-may-an-employee-who-elects-not-to-be-a-member under--the--retirement--system--under--paragraph-A-or-B-pay contributions--or-pick-up-contributions--or-receive-service credit-for-any-time-during-which-the-employee-elected-not-to be-a-member.~~

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B.

Sec. A-6. 5 MRSA §18252-A, sub-§3, as enacted by PL 1997, c. 709, §4, is amended to read:

3. Exclusions. This section does not apply to employees of participating local districts who are employed in part-time, seasonal or temporary positions or to employees for whom membership in the retirement system is optional under ~~section 18201, subsection 3;~~ section 18251, subsection 2, ~~section 18252, or section 18801, subsection 1, paragraph-D~~ 3 or denied under section 18256 or who are excluded from membership under section 18201, subsection 3.

Sec. A-7. 5 MRSA §18304, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

Any former member who withdrew his that person's contributions after termination of service or after withdrawing from the retirement system and who again becomes a member may repay his earlier contributions to the Members' Contribution Fund under the following conditions.

Sec. A-8. 5 MRSA §18304, sub-§1, as amended by PL 1991, c. 580, §14, is further amended to read:

1. Time. ~~The repayment may-not-be-made-until-the-member has-accumulated-at-least-2-continuous-years-of-creditable-service~~

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2 after the date of restoration to membership and must be made
before the date any retirement benefit becomes effective for the
member.

4 Sec. A-9. 5 MRSA §18305, sub-§4, as enacted by PL 1985, c.
6 801, §§5 and 7, is amended to read:

8 4. Exception. This section does not apply to any member who
begins membership after December 31, 1985, and who had, in
10 accordance with a person whose membership in the retirement
system is optional, unless the person is described in section
12 18251, elected not to become a member when first employed
subsection 3, paragraph B or C and the person began membership
14 before January 1, 1986.

16 Sec. A-10. 5 MRSA §18305-A is enacted to read:

18 §18305-A. Back contributions for optional members

20 A person whose membership is optional and who did not become
a member on the date of first employment or who reentered the
22 retirement system after having previously withdrawn may elect as
permitted by section 18251, 18252 or 18252-A, whichever is
24 applicable, to pay into the Members' Contribution Fund under the
following conditions:

26 1. Time. The payment must be made before the date any
28 retirement benefit becomes effective for the member;

30 2. Manner of payment. The payment must be made to the
retirement system by a single direct payment or by annual direct
32 payments made in accordance with section 18301, subsection 4; and

34 3. Amount of payment. The amount of payment must be the
amount that, together with regular interest on that amount, is
36 the actuarial equivalent, at the effective date of the retirement
benefit, of the portion of the retirement benefit based on the
38 additional creditable service. Additional amounts paid under
this section become part of the member's accumulated
40 contributions.

42 Sec. A-11. 5 MRSA §18306, first ¶, as amended by PL 1987, c.
739, §§36 and 48, is further amended to read:

44 If the service of any member has terminated, except by death
46 or retirement under this Part, or if an optional member withdraws
from the retirement system or if an employee of a district which
48 that withdraws from participation under section 18203 wishes to
have accumulated contributions refunded, the member or employee

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shall ~~must~~ be paid the amount of accumulated contributions under the following conditions.

Sec. A-12. 5 MRSA §18358, sub-§2, as amended by PL 1987, c. 739, §§41 and 48, is further amended to read:

2. Optional members joining or rejoining system. A person who joins the retirement system under section 18251, subsection ~~2, paragraph D, after December 31, 1985~~ 18252 or 18252-A:

~~A. May not pay contributions or have pick up contributions made by the employer on or receive any~~ Receives service credit for the period during which the person elected not to be a member of the retirement system only if payments are made pursuant to section 18305 or 18305-A; and

B. Begins to accrue membership service credit on the effective date of first contributions or pick-up contributions to the retirement system.

Sec. A-13. 5 MRSA §18359, as amended by PL 1987, c. 823, §§7 and 8, is repealed.

PART B

Sec. B-1. 5 MRSA §17703, sub-§1, as amended by PL 1991, c. 580, §5, is further amended to read:

1. Time. ~~The repayment may not be made until the member has accumulated at least 2 continuous years of creditable service after the date of restoration to membership and~~ must be made before the date any retirement benefit becomes effective for the member.

Sec. B-2. 5 MRSA §17703, sub-§1-A, as amended by PL 2003, c. 261, §5, is repealed.

Sec. B-3. 5 MRSA §17705, first ¶, as repealed and replaced by PL 1987, c. 256, §6, is amended to read:

If the service of any member has terminated, except by death or by retirement under this Part, or if an optional member withdraws from the retirement system, the member shall ~~must~~ be paid the amount of ~~his~~ the member's accumulated contributions, under the following conditions.'

SUMMARY

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This amendment replaces the bill. It makes the law regarding purchase of service credit for optional members the same for participating local district optional members as it is for optional members in the other retirement programs administered by the Maine State Retirement System.

Any optional member may purchase service credit for service rendered to the participating local district during which the person elected not to be a member of the Maine State Retirement System. Persons who can purchase that credit under current law by paying missed contributions plus interest continue to be able to purchase credit at that cost. Other optional members must pay the actuarial value of the service credit being purchased.

The amendment also makes clear that optional members who withdraw from the Maine State Retirement System may withdraw their accumulated contributions, regardless of whether they have terminated employment. If those members later rejoin the Maine State Retirement System, they may repurchase service credit by repaying their accumulated contributions plus interest. The amendment deletes the 2-year waiting period before persons may repay withdrawn contributions.

The amendment also amends the law governing the state employee and teacher plan to delete the 2-year waiting period before withdrawn contributions may be repaid, to make that plan consistent with the participating local district plan. It also clarifies that optional members may withdraw accumulated contributions when they withdraw from the plan, regardless of whether they have terminated employment.

The amendment also changes many references from "employee" to "person" to be consistent with newer sections of law without making any substantive change in law.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 1810

**An Act To Amend the Laws Concerning Optional Membership for
Participating Local Districts in the Maine State Retirement System**

LR 2559(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

No cost to state or participating local districts

Fiscal Detail and Notes

This bill allows those optional members currently prevented from purchasing service credit for periods of non-membership in a participating local district to purchase those credits by paying the full actuarial cost. There is no cost to the employer or the plan. Permitting a member to repay withdrawn contributions immediately upon rejoining the Maine State Retirement System rather than having to wait two years does not create a cost to employers or the plan.