

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FIRST LEGISLATURE

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**Legislative Document**

**No. 936**

H. P. 680

House of Representatives, January 31, 1963

Referred to Committee on Retirements and Pensions. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Philbrick of Augusta.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-THREE

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### **AN ACT to Permit Employees of State of Maine to Receive Federal Social Security Benefits.**

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

**Sec. 1. R. S., c. 65, § 1, amended.** Section 1 of chapter 65 of the Revised Statutes, as repealed and replaced by section 65 of chapter 429 of the public laws of 1957 and as amended by chapter 38 of the public laws of 1961, is further amended to read as follows:

**'Sec. 1. Declaration of policy.** In order to extend to employees of the political subdivisions of the State of Maine, and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., sec. 42), whether members of existing retirement or pension systems or not, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act. ~~The provisions of this~~ This chapter shall also apply to employees of Maine Maritime Academy, **sheriffs and deputy sheriffs** who are members of an existing retirement or pension system. This chapter shall not apply to teachers and firemen who are under a state or local government pension or retirement plan, except teachers at the Maine Maritime Academy.'

**Sec. 2. R. S., c. 65, § 2, amended.** The 2nd and 3rd paragraphs of section 2 of chapter 65 of the Revised Statutes are amended to read as follows:

'The term "employment" means any service performed by an employee in

the employ of the State or of any political subdivision of the State, for such employer, except service which in the absence of an agreement entered into under the provisions of this chapter would constitute "employment" as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under the provisions of this chapter. ~~Employment in positions covered by any retirement system supported wholly or in part by the State or any of its subdivisions may not be included in such agreement;~~

The term "employee" includes an officer of the State or of a political subdivision of the State.'

**Sec. 3. R. S., c. 65, § 3, amended.** The first paragraph of section 3 of chapter 65 of the Revised Statutes, as amended by section 3 of chapter 150 of the public laws of 1957, is further amended to read as follows:

'The state agency, with the approval of the Governor, is authorized to enter on behalf of the State into an agreement with the Federal Security Administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the Federal Old Age and Survivors and Disability Insurance System to employees of the State and of any political subdivision of the State and to the civilian employees of the Maine National Guard who are employed pursuant to Section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., Sec. 42), with respect to services specified in such agreement which constitute "employment" as defined in section 2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Federal Security Administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:'

**Sec. 4. R. S., c. 65, § 3, sub-§ III, amended.** Subsection III of section 3 of chapter 65 of the Revised Statutes is amended to read as follows:

**III. Effective date.** Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the first day of January, 1951; **provided in a modification of the agreement to cover state employees the effective date with respect to services in state employment may be January 1, 1956;** and'

**Sec. 5. R. S., c. 65, § 3, sub-§ V, additional.** Section 3 of chapter 65 of the Revised Statutes, as amended by section 3 of chapter 150 of the public laws of 1957, is further amended by adding a new subsection to be numbered V, to read as follows:

**V. Services of state employees.** All services which constitute employment as defined in section 2 and are performed in the employ of the State by employees of the State shall be covered by the agreement.'

**Sec. 6. R. S., c. 65, § 3-A, additional.** Chapter 65 of the Revised Statutes is amended by adding a new section to be numbered 3-A, to read as follows:

**Sec. 3-A. Contributions by state employees; contributions by the State.** With respect to employees of the State the Governor is empowered to authorize a referendum and with respect to the employees of any political subdivision he shall authorize a referendum upon request of the governing body of such subdivision. The referendum shall be conducted and the Governor shall designate an agency or individual to supervise its conduct, in accordance with the rules of Section 218 (d) (3) of the Social Security Act on the question of whether service in positions covered by a retirement system established by the State or by a political subdivision thereof shall be excluded from or included under an agreement under this act. The notice of referendum required by Section 218 (d) (3) (C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and to their dependents and survivors and the liability to which they shall be subject if their services are included under an agreement under this act. Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in Section 218 (d) (3) of the Social Security Act have been met, the Governor shall so certify to the Secretary of the Department of Health, Education and Welfare.

Every employee of the State shall be required to pay for the period of such coverage into the contribution fund established by section 5, contributions with respect to wages as defined in section 2, equal to the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. The contribution imposed by this section shall be collected by deducting the amount of the contribution from the wages as and when paid but failure to make such deductions shall not relieve the employee from liability for such contributions. The State shall pay into the Social Security contribution fund with respect to wages of employees of the State as defined in section 2 of this act, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement or modification thereof entered into by any state agency under section 3.'

**Sec. 7. R. S., c. 65, § 5, amended.** The 2nd sentence of the first paragraph of section 5 of chapter 65 of the Revised Statutes is amended to read as follows: 'Such fund shall consist of and there shall be deposited in such fund: all contributions, interest and penalties collected under ~~the provisions of section sections~~ **3-A and 4**; all moneys appropriated thereto under the provisions of this chapter; any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; interest earned upon any moneys in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source.'

**Sec. 8. R. S., c. 65, § 5, amended.** The 5th paragraph of section 5 of chapter 65 of the Revised Statutes is amended to read as follows:

'There are authorized to be appropriated biannually to the Contribution Fund, in addition to the contributions collected and paid into the Contribution Fund

under ~~the provisions of section~~ **sections 3-A and 4**, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under ~~the provisions of section 3.~~'

**Sec. 9. R. S., c. 65, § 7, amended.** Section 7 of chapter 65 of the Revised Statutes is amended to read as follows:

**Sec. 7. Cost of administration.** Any cost of administering ~~the provisions of this chapter~~ may be prorated among the political subdivisions joining this plan ~~and the State~~. A Revolving Fund of \$10,000 is appropriated from the ~~General Fund~~ Unappropriated Surplus of the **General Fund of the State** from which costs of administration shall be paid and to which shall be credited the amounts billed to and received from the political subdivisions in the plan.'

**Sec. 10. Amendatory clause.** The term "Secretary of Health, Education and Welfare" is substituted for the term "Federal Security Administrator" wherever it appears in the Revised Statutes, chapter 65.