

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2027

H. P. 1860

House of Representatives, January 20, 1976

Referred to Committee on Veterans and Retirement. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Theriault of Rumford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Clarify the Retirement Statutes.

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

Whereas, the regular session of the 107th Legislature enacted "AN ACT to Reform the State Retirement System;" and

Whereas, there are certain errors and inconsistencies created in the retirement system statutes by that Act, including inappropriate effective dates; and

Whereas, such errors and inconsistencies should be speedily remedied to avoid confusion and to properly reflect legislative intent in the application of the statutes; 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:

Sec. 1. 5 MRSA § 1092, sub-§ 3-A, as enacted by PL 1975, c. 622, § 23-A, is amended to read:

3-A. Additional retirement benefits. Any participating local district by filing with the board of trustees a duly certified copy of its actions, may provide an additional retirement benefit for all employees eligible for retirement

benefits or allowances under subsections 2 or 3 of this section or under subsections 8 and 9 of section 1121 ~~2%~~ of average final compensation for each year of membership service not included in the age and service conditions for retirement under these sections. Such additional benefit shall be equal to the annual accrual under the district's formula for determining the service retirement allowance for general government employees in effect on the member's retirement date.

Sec. 2. 5 MRSA § 1094, sub-§ 16, as enacted by PL 1975, c. 622, § 38-A, is amended to read:

16. Accumulated or accrued vacation or sick leave. ~~All accumulated~~ Accumulated or accrued sick leave or unused vacation leave or a combination of both, for which the member is credited on termination of service, but for which the member does not receive payment, shall be credited as membership service. Accumulated or accrued leave shall not include lapsed leave, or other leave beyond a maximum set as accumulated or accrued by personnel rules or regulations or by contract. Accumulated or accrued leave credited for membership service shall not exceed a total of 90 days.

Sec. 3. 5 MRSA § 1121, sub-§ 4, ¶ B, next to last sentence, as repealed and replaced by PL 1975, c. 622, § 49, is amended to read:

Notwithstanding the foregoing, the service of any member who has attained the age of ~~70~~ 60, and who desires to remain in service, may be continued for periods of one year, if approved by the Governor and Council, for state employees, or by the executive body of the participating local district which employs the member, in accordance with such employment practices of the local district.

Sec. 4. 5 MRSA § 1125, sub-§ 1-A, first ¶, as last amended by PL 1975, c. 622, § 57, is further amended to read:

If a member of the retirement system or a former member who is a beneficiary receiving a disability retirement allowance shall die as a result of ~~an~~ illness or injury received in the line of duty his beneficiary, if his surviving spouse, and if there is no surviving child or children under age 18, shall receive an annual sum equal to $\frac{2}{3}$ of the average final compensation of the member; or his beneficiary, if his surviving spouse, if the member is survived by a spouse and a child or children under age 18, jointly, shall be entitled to an annual sum equal to the average final compensation of the member; or his beneficiary, if his child or children, if the member is survived only by a child or children under 18, jointly, shall receive an annual sum equal to the average final compensation of the member.

Sec. 5. 5 MRSA § 1128, last ¶, last sentence, as repealed and replaced by PL 1975, c. 622, § 62, is amended to read:

This provision shall apply only if the member is eligible under sections 1092 or 1121 to retire on the day immediately preceding the effective date of such retirement ~~adjustment~~ allowance adjustment.

Sec. 6. PL 1975, c. 622, § 66, 2nd and 3rd ¶¶ are amended to read:

Sections 22, 51, 52 and 53 shall apply to all retirement allowances that are first payable on or after July 1, 1977; except that any part of a retirement allowance based on creditable service and earnable compensation paid prior to July 1, 1977 that would be higher if determined, on a pro rata basis, under the provisions of chapter 101 in effect immediately prior to July 1, 1977, shall be so determined.

Sections 23-A, 38-B, 41, 44, 46, 49-A, 50 and 50-A shall apply to all retirement allowances that are first payable on or after July 1, 1977; except that any part of a retirement allowance based on creditable service and earnable compensation paid prior to ~~January 1, 1976~~ July 1, 1977 that would be higher if determined, on a pro rata basis, under the provisions of chapter 101 in effect immediately prior to July 1, 1977, shall be so determined.

Sec. 7. PL 1975, c. 622, § 66, 9th ¶ is amended to read:

Sections 2, 38, 54, 54-C and 54-D shall apply to all disability retirement allowances for which written application is received on or after July 1, 1977. Applications for disability retirement allowances prior to such date shall be determined under the provisions of Title 5, section 1122, subsections 1 to 4 and 6 as in effect immediately prior to July 1, 1977.

Sec. 8. PL 1975, c. 622, § 66, 13th and 14th ¶¶, are amended to read:

Sections 1, 22, 24, 25, 27, 39, 40, 48, 49, 51, 52, ~~and 53~~ and 54-B shall apply to all participating local districts, whether or not the district elects such sections as amended.

The effective date of this Act, except for sections 1, 2, 22, 38, 51, 52, 53, 54, 55, 56 and 57 shall be January 1, 1976.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to clarify certain ambiguities in the State Retirement System statutes which were created by the enactment of "AN ACT to Reform the State Retirement System," PL 1975, c. 622, during the 107th regular session.