

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 436**

H. P. 393

House of Representatives, January 26, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Murphy of Kennebunk.

Cosponsors: Representative Hanson of Kennebunkport, Representative Wentworth of Wells and Senator Dutremble of York.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Authorize the Merger of the Kennebunk, Kennebunkport and Wells Water District Pension Trust with the Maine State Retirement System.**

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

**Sec. 1. Plan merger.** The Kennebunk, Kennebunkport and Wells Water District Pension Trust shall be merged with the Maine State Retirement System.

**Sec. 2. Asset transfer.** The funds held in the Kennebunk, Kennebunkport and Wells Water District Pension Trust representing the accrued pension benefits of active employees and former employees who have at least 10 years of creditable service in accordance with the Maine Revised Statutes, Title 5, section 1121, or have fewer than 5 years of service under the Kennebunk, Kennebunkport and Wells Water District Pension Trust, determined as of the effective date of this Act, shall be transferred to the Maine State Retirement System within 30 days of the effective date of this Act. Funds held in the trust for employees who have 5 years of service under the Kennebunk, Kennebunkport and Wells Water District Pension Trust but who do not have 10 years of creditable service under the Maine State Retirement System shall be transferred to the Maine State Retirement System within 30 days after the employee accumulates 10 years of creditable service under the Maine State Retirement System or be distributed to the employee in accordance with the terms of the Kennebunk, Kennebunkport and

Wells Water District Pension Trust if the employee terminates his service with the Kennebunk, Kennebunkport and Wells Water District before accumulating 10 years of creditable service.

**Sec. 3. Future of trust.** The Kennebunk, Kennebunkport and Wells Water District Pension Trust shall remain in existence until all of its assets have been transferred to the Maine State Retirement System or to the terminated employees as provided in section 2. After the merger, the Kennebunk, Kennebunkport and Wells Water District shall be considered a "participating local district" for all purposes relative to the Maine State Retirement System.

**Sec. 4. Past service recognition.** Upon the initial transfer of assets provided in section 2, the Kennebunk, Kennebunkport and Wells Water District shall recognize all service of its active employees, determined as of June 1, 1979, for purposes of benefit accrual under the Maine State Retirement System.

#### STATEMENT OF FACT

The Kennebunk, Kennebunkport and Wells Water District desires to transfer the assets held in the Kennebunk, Kennebunkport and Wells Water District Pension Trust to the Maine State Retirement System for the benefit of its employees. This legislation is being proposed solely because the United States Internal Revenue Service has taken the position that this transfer of assets, without a "merger," will result in substantial taxation to the employees of the district, even though the employees will not receive any money from the transfer.

The district has maintained the district pension plan for its employees since 1957. In 1979, the trustees of the district decided that it was in the best interest of the district employees to adopt the Maine State Retirement System and to transfer the district pension plan assets to the Maine State Retirement System. The district then adopted the Maine State Retirement System and recognized 5 years of past service liability for purposes of benefit calculation.

The benefits provided under the Maine State Retirement System are superior to those provided under the district pension plan. Employees with 10 years of service under the Maine State Retirement System receive 1/50th of their compensation for each year of service, while employees under the district pension plan receive approximately 1/100th of their compensation, with slight variations which never exceed 1/50th. All of the employees of the district have expressed their approval of the adoption of the Maine State Retirement System and the transfer of the assets of the district pension plan to the Maine State Retirement System.

The only employees who could potentially be hurt by this merger are employees who have 5 but less than 10 years of service under the district pension plan. These employees would be entitled to retirement benefits under the district pension plan, whereas they would not be entitled to a retirement benefit under the Maine State Retirement System until they accumulate 10 years of service. These employees have been protected under the proposed legislation by the retention of

funds representing their accrued interests in the district pension plan. If they terminate without accumulating 10 years of service, their accrued interests will be distributed to them. If they obtain 10 years of service, their accrued interests will be transferred to the Maine State Retirement System.

With this provision, no employee will be hurt by the merger, and each employee will receive a benefit immediately after the merger which is equal to or greater than the benefit he would have received had the merger not taken place and the plan had then terminated. This is the test which the Internal Revenue Service would apply to the merger and with this legislation the merger will meet that test.

After all of the funds in the district pension plan have been transferred to the Maine State Retirement System or the employees, the merger of the 2 plans will be complete.