

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

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Legislative Document

No. 414

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H.P. 302

House of Representatives, February 23, 1989

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MITCHELL of Freeport.

Cosponsored by Senator CLARK of Cumberland, Senator GILL of Cumberland and Senator BUSTIN of Kennebec.

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STATE OF MAINE

---

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

---

An Act to Establish a Volunteer Firefighters' Pension Fund.

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

3 5 MRSA c. 425, sub-c. V, art. 6 is enacted to read:

5 ARTICLE 6. VOLUNTEER FIREFIGHTERS' BENEFITS

7 §18611. Definitions

9 As used in this article, unless the context otherwise  
11 indicates, the following terms have the following meanings.

13 1. Actuarially sound pension system. "Actuarially sound  
15 pension system" means a system in which the amount of  
17 contributions is sufficient to cover the normal cost and 20-year  
19 amortization of the unfunded prior-service cost. The normal cost  
21 and prior-service cost are to be determined by a qualified  
23 actuary and based on assumptions adopted by the state board of  
25 trustees and approved by the actuary in regard to future  
27 contribution levels, mortality, retirement age, turnover and  
29 morbidity. In this system:

31 A. The normal cost is the annual cost of the members'  
33 benefits assigned for the years after date of entry;

35 B. The unfunded prior-service cost is equal to the  
37 prior-service cost reduced by the assets; and

39 C. The prior-service cost determined as of the date of the  
41 actuarial valuation is equal to:

43 (1) The present value of future benefits on behalf of  
45 all individuals receiving benefits;

47 (2) The present value of future benefits on behalf of  
49 all individuals who have terminated their service with  
51 vested benefits to commence at a future date; and

(3) The present value of future benefits accrued to  
the date of valuation on behalf of all individuals in  
active service.

2. Commissioner. "Commissioner" means the Commissioner of  
Public Safety.

3. Current pension plan. "Current pension plan" means a  
pension plan in which a fire department is participating when it  
elects to join the pension system created by this article.

4. Dependent. "Dependent" means dependent as defined by  
the United States Internal Revenue Code, Subtitle A, Chapter 1B,  
Part V, Section 152 and any subsequent amendments.

1        5. Firefighter. "Firefighter" means a volunteer  
2        firefighter as defined in Title 30-A, section 3151, subsection 4.

3        6. Fund. "Fund" means the Volunteer Firefighters' Relief  
4        and Retirement Fund created by this article.

5        7. Governing body. "Governing body" means the governing  
6        body of any city or municipality within which a municipal fire  
7        department subject to the provisions of this article is situated.

8        8. Member fire department. "Member fire department" means  
9        a municipal fire department that participates in the pension  
10       system under this article.

11       9. Member firefighter. "Member firefighter" means a  
12       firefighter who participates in the pension system under this  
13       article.

14       10. Municipal fire department. "Municipal fire department"  
15       has the same meaning as defined in Title 30-A, section 3151,  
16       subsection 1.

17       11. Pension system. "Pension system" means the system of  
18       contributions and benefits created by this article.

19       12. Qualified actuary. "Qualified actuary" means a fellow  
20       of the Society of Actuaries or a member of the American Academy  
21       of Actuaries, or both, who has at least 5 years of experience  
22       with public retirement systems.

23       13. Qualified service. "Qualified service" means  
24       firefighting service rendered by a firefighter without monetary  
25       remuneration while a member in good standing of a firefighting  
26       unit that has no fewer than 10 active members and a minimum of 2  
27       drills each month, each drill 2 hours long, and each active  
28       member present at 40% of the drills and 25% of the fires, or  
29       firefighting service rendered without monetary remuneration while  
30       a member of a firefighting unit which includes paid  
31       firefighters. Absence caused by military duty does not affect  
32       qualified service.

33       14. Retirement age. "Retirement age" means age 55.

34       15. Solvent. "Solvent" means sufficient assets on hand to  
35       meet all current benefits due.

36       §18612. Volunteer Firefighters' Relief and Retirement Fund

37       1. Establishment. The Volunteer Firefighters' Relief and  
38       Retirement Fund is established.

1        2. Participation. Participation in the fund is optional.  
2        Any governing body may, not later than 60 days after the  
3        effective date of this article and in accordance with the usual  
4        procedures prescribed for other official actions of the governing  
5        body, elect to exempt itself from the requirements of this  
6        article. Any action to provide for an exemption from the  
7        requirements of this article may be rescinded by the governing  
8        body at any time.

9  
10       3. Contributions of governing body. Every governing body  
11       shall contribute for each firefighter at least \$12 for each month  
12       of service beginning on the date the firefighter enters the  
13       pension system. Contributions must be paid at least every 6  
14       months. If the member fire department is situated in more than  
15       one political subdivision, the governing bodies of the political  
16       subdivisions shall contribute equally towards a total of at least  
17       \$12 for each firefighter for each month of service.

18  
19       4. Contributions of State. The State shall contribute the  
20       sum necessary to make the fund actuarially sound each year. The  
21       State's contribution may not exceed the amount of 1/3 of the  
22       total of all contributions by governing bodies in one year. If  
23       the State contributes 1/3 of the total contributions of the  
24       governing bodies in one year, the fund shall be presumed  
25       actuarially sound.

26  
27       5. Contributions from other sources. The commissioner may  
28       receive contributions to the fund from any source.

29  
30       6. Contributions not compensation. Any contribution made  
31       and any benefits provided pursuant to this article shall not be  
32       considered compensation and member firefighters shall not be  
33       deemed to be in the paid service of any governing body.

34       §18613. Retirement benefits

35  
36       1. Retirement annuity. A member firefighter shall receive  
37       a retirement annuity payable in monthly installments on reaching  
38       retirement age, subject to the vesting provisions in section  
39       18616.

40  
41       2. Calculation. The monthly retirement annuity is equal to  
42       6 times the governing body's average monthly contribution over  
43       the member firefighter's term of qualified service under this  
44       article.

45  
46       3. Additional qualified service. For each year of  
47       additional qualified service in excess of 15 years, a member  
48       firefighter is entitled to receive an additional 7% of the  
49       firefighter's monthly pension compounded annually. A firefighter  
50       may receive a proportional credit for days or months of qualified  
51       service that make up less than one year.

1           §18614. Disability benefits

3           1. Election of benefits. A member firefighter must elect  
5           between retirement or disability benefits if eligible for both.

7           2. Disability during performance of duty. A member  
9           firefighter who is disabled during the performance of duties as a  
11           member of the fire department is automatically vested 100% as of  
13           the date of disability, if the disability occurs before the  
          member has completed 15 years of qualified service. Benefits  
          under this subsection are payable until the member is able to  
          return to the member's regular employment.

15           3. Disability while not performing duties. A member  
17           firefighter who is disabled while not performing duties as a  
19           member of the fire department is entitled to be paid a vested  
21           monthly income, based on 3 times the amount of the monthly  
          contribution, until the member is able to return to regular  
          employment. Prior service is considered vested service for  
          purposes of computing benefits under this subsection.

23           4. Guaranteed benefits. A member firefighter whose  
25           disability results from performing duties as a firefighter is  
          guaranteed a disability benefit of \$300 a month.

27           §18615. Death benefits

29           1. Death not resulting from performance of duties. The  
31           beneficiary of a deceased member firefighter whose death did not  
33           result from the performance of duties as a member of the fire  
          department shall receive a lump-sum benefit that is the greater  
          of:

35           A. The sum contributed to the fund on the decedent's  
37           behalf; or

39           B. The sum which would have been contributed on the  
41           decedent's behalf from any source at the end of 15 years of  
          qualified service.

43           2. Death resulting from performing duties. The beneficiary  
45           of a member whose death results from performing duties as a  
          firefighter is guaranteed a lump-sum benefit of at least \$5,000.

47           3. Spouse and dependent's share. The deceased member's  
          spouse and dependents are entitled to receive the following:

49           A. If the death of a member firefighter results from the  
51           performance of duties as a member of the fire department, in  
          addition to the lump-sum death benefit, the deceased  
          member's spouse and dependents are entitled to receive in

1       equal shares a survivor's benefit equal to 2/3 of the  
2       monthly retirement annuity the decedent would have been  
3       entitled to receive if the decedent had been able to retire,  
4       vested at 100% under section 18613, on the date of the  
5       decedent's death. As long as both spouse and one or more  
6       dependents survive, an additional 1/3 of that monthly  
7       retirement annuity shall be paid to the dependents in equal  
8       shares.

9  
10       B. If the death of a member firefighter does not result  
11       from the performance of duties as a member of the fire  
12       department, in addition to the lump-sum death benefit, the  
13       deceased member's spouse and dependents are entitled to  
14       receive in equal shares a survivor's benefit equal to 2/3 of  
15       the member's vested benefit as of the date of death, based  
16       on 3 times the amount of the monthly contribution. Prior  
17       service is considered vested service for the purposes of  
18       computing benefits under this subsection. As long as both  
19       spouse and one or more dependents survive, an additional 1/3  
20       of the vested benefit is payable to the dependents in equal  
21       shares.

22  
23       4. Death after retirement. If a member firefighter dies  
24       after retirement, the surviving spouse shall receive 2/3 of the  
25       monthly pension the decedent was receiving at the time of death.

26  
27       5. Spouse eligibility. The spouse is eligible to receive  
28       benefits as long as the spouse is unmarried.

29  
30       6. Intestacy. Lump-sum death benefits are subject to the  
31       laws of descent and distribution if the decedent has not provided  
32       for testamentary disposition.

33  
34       7. More than one beneficiary. When a firefighter names  
35       more than one beneficiary for the lump-sum death benefit, the  
36       benefit shall be divided equally among the named beneficiaries  
37       unless the firefighter designates a proportional division. If  
38       the firefighter designates a proportional division, each  
39       beneficiary shall receive the proportion of the lump-sum benefit  
40       designated by the firefighter.

41       §18616. Vesting of benefits

42  
43       1. Vesting. No right to retirement benefits vests until 5  
44       years of qualified service are completed.

45  
46       2. Nonforfeiture. Vested retirement benefits are  
47       nonforfeitable.

48  
49       3. Rates. Full retirement benefits vest at the following  
50       rates:

- 1           A. 25% after the first 5 years of qualified service;  
3           B. 5% a year for the next 5 years of qualified service; and  
5           C. 10% a year for the 11th through the 15th years of  
7           qualified service.

9           §18617. Member claim and appeal procedure

11           1. Procedure. Claims for benefits are filed with the local  
13           board of trustees. On receiving a claim for benefits, the local  
15           board of trustees shall hold a hearing to decide the claim. A  
17           written copy of the decision shall be sent to the claimant and  
19           the commissioner. A claimant may appeal the decision of the  
21           local board by filing notice of the appeal with the local board  
23           and the commissioner within 20 days after receiving notice of the  
25           local board's decision. The local board shall file a transcript  
27           of the local board hearing with the commissioner within 30 days  
29           after receiving notice of appeal. The commissioner shall, within  
31           30 days after receiving notice of appeal, set a date for a  
33           hearing and notify the claimant and the local board. A written  
35           copy of the commissioner's decision must be sent to the claimant  
              and the local board. A claimant may appeal the commissioner's  
              decision to the state board of trustees. The appeal must be  
              filed within 20 days after receiving notice of the commissioner's  
              decision. The state board of trustees shall, within 30 days  
              after receiving notice of appeal, set a date for a hearing and  
              notify the claimant, the local board and the commissioner. The  
              claimant, the local board and the commissioner may present any  
              written or oral evidence necessary for deciding a claim. The  
              local board, the state board and the commissioner may administer  
              oaths, receive evidence, issue subpoenas to compel the attendance  
              of witnesses and the production of papers and documents related  
              to the hearing and make findings of fact and decisions in  
              administering this article.

37           2. Representation. The attorney general shall represent  
39           the commissioner in all proceedings under this article which  
41           require representation. The local board may be represented by  
              the city attorney or, when appropriate, the county attorney or  
              counsel it may choose to employ.

43           3. Judicial review. Any person who is aggrieved by final  
45           agency action under this section shall be entitled to judicial  
47           review in the Superior Court in accordance with the Maine  
              Administrative Procedure Act, Title 5, chapter 375, subchapter  
              VII.

49           §18618. Certification of physical fitness

51           A firefighter entering service in a member fire department  
              after the effective date of this article must be certified as



1 physically fit by the local board of trustees prior to admission  
2 to the pension system.

3 **§18619. Transfer of accrued benefits**

4  
5 A member firefighter who terminates service and later  
6 resumes service with the same fire department or transfers to  
7 another member department may transfer all accrued benefits to  
8 the new or resumed service.

9  
10 **§18620. Entering the pension system; required election**

11  
12 1. Election. An election shall be held within the local  
13 fire department to merge its current pension plan with the  
14 pension system. The election shall be held within 14 days after  
15 a petition calling for an election and signed by 50% of the  
16 active firefighters in the department is filed at the local  
17 department and the disclosure required by section 18627 is made  
18 to the firefighters in the local department.

19  
20 2. Insolvent pension plan. If the current pension plan of  
21 the fire department is not solvent, the election to enter the  
22 pension system in this article shall be decided by a majority of  
23 the votes cast by qualified firefighters in the department.

24  
25 3. Solvent pension plan. If the current pension plan of  
26 the fire department is solvent, the election to enter the pension  
27 system in this article shall be decided by at least 60% of all  
28 votes cast.

29  
30 4. Vote. In the election required in this section, a  
31 firefighter's vote shall be multiplied by the number of years of  
32 participation in the current pension plan.

33  
34 **§18621. Merger of current pension plan with pension system**

35  
36 1. Merger. When a fire department under a current pension  
37 plan elects to participate in the pension system in this article,  
38 the current pension plan is merged with the pension system.

39  
40 2. Costs. The costs of the current pension plan shall be  
41 determined on an actuarially sound basis using the attained-age  
42 normal method and actuarial assumptions described in section  
43 18611, subsection 1. The costs shall be certified by a qualified  
44 actuary as of the effective date of merger or within 3 years  
45 preceding the date of merger.

46  
47 3. Assets and liabilities. On the date of merger, all  
48 assets and liabilities of the current pension plan are  
49 transferred to the pension system and become an allocated part of  
50 the system. The assets may be merged with the pension system  
51 assets for investment purposes, but a separate account shall be

1 maintained for the funds allocated to each plan that has merged  
2 with the system.

3 4. Retirement benefits. Following merger, a member's  
4 retirement benefits in the pension system are determined by  
5 either the future-service method or the buy-back method.

6 5. Future-service and buy-back methods. Retirement  
7 benefits shall be determined as follows.

8 A. In the future-service method, the qualified service  
9 required to earn retirement benefits in the pension system  
10 begins as of the date of merger. For determining a person's  
11 retirement benefits in the pension system, a firefighter may  
12 choose the formula for benefits used in the current pension  
13 plan or the formula for benefits as outlined in this  
14 article. Any retirement benefits accrued prior to the date  
15 of merger shall also be paid on retirement according to the  
16 formula for benefits under the current pension plan.

17 B. In the buy-back method of determining the firefighter's  
18 retirement benefits in the pension system, a firefighter may  
19 choose the formula for benefits used in the current pension  
20 plan or the formula for benefits as outlined in this  
21 article. The firefighter who has less than 15 years of  
22 service remaining before retirement as of the date of merger  
23 may count time served under the current pension plan before  
24 the date of merger as qualified service. The time period  
25 necessary to make 15 years of service before retirement may  
26 be used.

27 6. Termination of service. A firefighter who terminates  
28 service prior to the date of merger of the firefighter's fire  
29 department's current pension plan with the pension system is  
30 entitled to receive at retirement age the retirement benefits  
31 vested under the pension plan in effect during the firefighter's  
32 service. The pension system pays the firefighter's benefits.

33 7. Payment of benefits. Any benefits being paid by the  
34 current pension plan at the date of merger will be paid by the  
35 pension system following merger.

36 8. Contributions. On merger of a current pension plan with  
37 the pension system, the sponsors of the current pension plan are  
38 obligated to make contributions to the pension system in this  
39 article to fund the unfunded prior-service cost. The unfunded  
40 prior-service cost is determined as of the date of merger using  
41 the attained-age normal method and the actuarial assumptions in  
42 the definition of actuarially sound pension system. The period  
43 of funding these contributions shall not exceed 20 years measured  
44 from the date of merger.

1        9. Election. An election for the local board of trustees  
2        shall be held within 30 days of entering the pension system. The  
3        names of the elected trustees are filed with the commissioner.

5        §18622. Prior service of members without pension plan before  
6        participation

7  
8        A governing body that is participating in the fund and whose  
9        fire department did not have a pension plan in effect immediately  
10       before the date of participation may purchase, on terms  
11       acceptable to the commissioner, credit for prior service by its  
12       member firefighters. The commissioner, after consultation with a  
13       qualified actuary, shall determine the amount required to  
14       purchase prior-service credit under this section. The  
15       requirements of section 18621 apply to the purchase of  
16       prior-service credit under this section to the extent that they  
17       are applicable. The value of prior service purchased under this  
18       section is the same as if it had been performed as a member of  
19       the fund.

21       §18623. Withdrawing from pension system

22       1. Withdrawal from pension system. A current pension plan  
23       that merges with the pension system may withdraw from the pension  
24       system within 5 years after the date of merger on a majority vote  
25       of the firefighters in the department voting in the same manner  
26       as provided in section 18620.

27  
28       2. Transferral of allocated assets and liabilities. On  
29       withdrawal from the pension system, the allocated assets and  
30       liabilities as apportioned by an actuary retained by the pension  
31       system shall be transferred to the plan chosen to replace the  
32       pension system.

33  
34       3. Termination of service. If a firefighter terminates  
35       service before retirement, vested retirement benefits shall be  
36       paid to the firefighter at retirement age. There is no penalty  
37       for nonconsecutive years of service.

38       §18624. Benefits received from other plans or insurance

39  
40       The rights to benefits under this pension system are not  
41       defeated by benefits or payments received by other plans or  
42       insurance.

43       §18625. Investment and management of fund

44  
45       1. Investment of surplus. If the commissioner's annual  
46       report shows a surplus in the fund over the amount necessary to  
47       pay benefits due for a reasonable period of time not to exceed 5  
48       years, the commissioner and trustees shall invest the surplus.  
49       The surplus may be invested in:  
50  
51

1           A. Bonds or other interest-bearing obligations and  
3           securities issued by governmental entities;

5           B. Shares or share accounts of savings and loan  
7           associations insured by the Federal Savings and Loan  
            Insurance Corporation;

9           C. Shares and share accounts of banks insured by the  
11           Federal Deposit Insurance Corporation;

13           D. First lien real estate mortgage securities insured by  
            the Federal Housing Administration under the National  
15           Housing Act, as amended;

17           E. Investments made by a life insurance company in order to  
            effect a group annuity contract; or

19           F. Corporation bonds, preferred stocks and common stocks.

21           2. Investment counseling. The state board of trustees  
23           shall employ a professional investment counselor, a legal reserve  
25           life insurance company licensed to do business in the State or a  
27           bank with trust powers under the laws of the State. The  
29           investment counselor or bank employed by the board shall be a  
31           nationally known organization whose business includes investment  
33           counseling for public pension and retirement funds. A life  
            insurance company employed by the board shall provide a group  
            annuity contract that guarantees expenses and provides a formula  
            for determining the amount of funds available for transfer at the  
            end of a contract period. The contract may not include  
            requirements that guaranteed life annuities be purchased. The  
            cost of the investment counseling service may be paid from income  
35           earned by investments.

37           3. Use of corpus or income. No portion of the corpus or  
39           income of the fund may be used for purposes other than the  
            benefit of member firefighters and their beneficiaries.

41           §18626. Pension plans required to be solvent

43           Every firefighter in the State who serves without monetary  
45           remuneration must be a member of a solvent pension plan. After  
47           the effective date of this article, an insolvent pension plan for  
            firefighters who serve without monetary remuneration must become  
            actuarially sound within 3 years. An insolvent pension plan must  
            demonstrate to the commissioner within 6 months after becoming  
            insolvent that steps are being taken to become actuarially sound.

49           §18627. Disclosure of pension plan information  
51

1       1. Disclosure by governing body. The governing body shall  
2       disclose to each firefighter who serves without monetary  
3       remuneration and who is eligible for participation in the pension  
4       system the information required by this section.

5       2. Commissioner to distribute information. The  
6       commissioner shall distribute to each fire department and each  
7       governing body the following information:

8           A. All benefits that are available in the pension system in  
9           this article;

10          B. The contributions required by the pension system;

11          C. The expected return on the investment of a member  
12          firefighter;

13          D. When benefits vest;

14          E. The transferability of benefits;

15          F. Rights of withdrawing members;

16          G. Procedures for filing claims and appeals;

17          H. Tax consequences; and

18          I. Changes in the law.

19       3. Municipal fire department disclosure. The municipal  
20       fire department shall disclose to each firefighter in the  
21       department and to each new firefighter on the firefighter's  
22       commissioning the information in subsection 2.

23       4. Disclosure by directors before election. After a  
24       petition for an election as required in section 18620 has been  
25       filed and before the election occurs, the directors of a current  
26       pension plan must disclose to its members the information  
27       required in subsection 2 about the current pension plan.

#### 28       §18628. Penalties

29       A governing body which does not disclose the information  
30       required in section 18627 or which does not meet the requirements  
31       of a solvent pension fund as required in section 18626 is subject  
32       to a civil penalty of not less than \$100 nor more than \$1,000 for  
33       each violation, plus reasonable attorney fees. The attorney  
34       general shall bring suit in a court of appropriate jurisdiction  
35       to collect the civil penalties authorized by this article.

#### 36       §18629. Commissioner

1       1. Commissioner. The duties of the commissioner under this  
2       article shall be performed by the Commissioner of Public Safety  
3       or the commissioner's designee.

4       2. Powers and duties. The commissioner shall have the  
5       following powers and duties.

6               A. The commissioner may not administer any firefighters'  
7               pension plan other than the pension system created by this  
8               article.

9               B. The commissioner may hear appeals from decisions of  
10              local boards in other pension plans.

11              C. The commissioner and the state board of trustees shall  
12              assemble and disseminate the information necessary for the  
13              disclosure requirements concerning the pension system as  
14              outlined in section 18627.

15              D. The commissioner is responsible for recovering any  
16              fraudulently acquired benefits. If it appears that fraud  
17              has occurred, the commissioner shall notify the local board  
18              and the claimant and hold a hearing. If after the hearing  
19              the commissioner decides that benefits have been or are  
20              being fraudulently acquired, the commissioner shall seek  
21              action in a court of appropriate jurisdiction.

22              E. The commissioner shall collect the revenues from the  
23              local boards of trustees for the fund.

24              F. The commissioner may request and administer additional  
25              state funds in an emergency.

26              G. The commissioner shall require annual reports from the  
27              local boards of trustees.

28              H. The commissioner may at any reasonable time examine the  
29              records and accounts of local boards of trustees.

30              I. The commissioner may recommend to the state board of  
31              trustees rules to implement this article.

32              J. The commissioner shall keep a copy of all rules  
33              promulgated under this article on file in the commissioner's  
34              office. A copy of the rules shall be placed with each local  
35              board of trustees and shall be made available for public  
36              inspection at any reasonable time.

37              K. The commissioner shall prepare the necessary forms for  
38              use by local boards of trustees.

1       L. The commissioner shall prepare an annual report on the  
2       activity and status of the fund. The report shall be sent  
3       to the Governor and the Speaker of the House.

4       M. The commissioner shall oversee the distribution of all  
5       benefits. The commissioner shall make benefit payments to  
6       claimants after receiving a copy of a local board of  
7       trustees' decision in favor of a claim and reviewing that  
8       decision.

9       N. If the commissioner overrules a local board's decision,  
10       the commissioner shall immediately notify the local board  
11       and the claimant.

12       O. The commissioner shall hear all appeals from local  
13       boards of trustees' decisions and issue written opinions in  
14       compliance with the procedures required by this article.

15       P. The commissioner shall keep a written transcript of all  
16       proceedings and hearings required by this article.

17  
18       §18630. State board of trustees

19       1. Establishment. There is established a state board of  
20       trustees composed of 6 members of the fund.

21       2. Appointment. The Governor, with the advice and consent  
22       of 2/3 majority membership of the Senate, shall appoint the  
23       trustees from a list of 3 to 5 nominees submitted by the Maine  
24       Firechiefs Organization for each vacancy.

25       3. Terms. The trustees shall serve 6-year terms. The  
26       trustees appointed to serve on the first board of trustees shall  
27       draw by lot at the first board meeting to determine the length of  
28       term to be served. Two trustees shall serve a 2-year term; 2  
29       trustees shall serve a 4-year term and 2 trustees shall serve a  
30       6-year term. Thereafter, each term shall be for 6 years.

31       4. Quorum. Four trustees constitute a quorum.

32       5. Majority vote. A board decision or recommendation is  
33       made by a majority vote of trustees present. The vote must be  
34       recorded in the minutes of board meetings.

35       6. Compensation. The trustees shall serve without  
36       compensation. Trustees may be reimbursed for travel expenses to  
37       attend board meetings.

38       7. Powers and duties. The state board of trustees shall  
39       have the following powers and duties.

1       A. The board shall employ the certified public accountant,  
2       the actuary and the investment advisors for the fund.

3       B. The board shall establish rules necessary for the  
4       administration of the fund.

5       C. The board shall hear appeals from the commissioner's  
6       decisions.

7       D. The board may authorize a cost-of-living increase for  
8       any benefit provided in the pension system. If benefits are  
9       increased, the board may require an increase in the  
10       governing body's contributions to maintain the actuarial  
11       soundness of the fund.

12       E. The board shall give notice and hold a hearing before  
13       authorizing a cost-of-living increase in benefits.

14       F. Any cost-of-living increase in benefits is effective  
15       after approval by the Legislature by concurrent resolution.

16       §18631. Local board of trustees

17       1. Composition. The local board of trustees is composed of  
18       the following:

19       A. One representative selected by the governing body;

20       B. Five members of the local fire department chosen by a  
21       majority of firefighters in qualified service; and

22       C. Two tax-paying voters who are chosen by the other  
23       members of the board.

24       2. Chair. The local board shall elect a chair from the  
25       members at the first meeting.

26       3. Terms. Trustees serve 2-year terms. On the first local  
27       board, the fire department representatives shall serve staggered  
28       terms. The fire department representatives shall draw by lot at  
29       the first board meeting to determine the length of term to be  
30       served. Three representatives shall serve 2-year terms, and 2  
31       representatives shall serve one-year terms. On the first local  
32       board, one tax-paying representative shall be appointed for a  
33       2-year term and one appointed for a one-year term. The  
34       representative selected by the governing body shall serve on the  
35       first local board for a 2-year term. Thereafter, all  
36       appointments are for 2-year terms.

37       4. Vacancies. If a vacancy occurs on the board, it is  
38       filled for the remainder of the unexpired term by the procedure  
39       by which the position was originally filled.



1           5. Quorum. A majority of board members constitutes a  
3 quorum.

5           6. Majority vote. A board decision is made by majority  
7 vote of all members present. The vote shall be recorded in the  
minutes of board meetings.

9           7. Compensation. No member of the local board may receive  
11 compensation for service as a trustee.

13           8. Powers and duties. The local board of trustees shall  
have the following powers and duties.

15           A. The local board of trustees shall collect all governing  
17 body contributions at least semiannually and send the  
contributions to the commissioner.

19           B. The local board shall hear and decide all claims for  
21 benefits according to the procedures in section 18617.

23           C. The board shall mail a copy of a decision on a claim to  
the parties involved and to the commissioner.

25           D. The board shall keep complete records of all claims and  
27 proceedings.

29           E. The local board shall require a firefighter who is  
31 receiving temporary disability benefits to file a disability  
33 rating report from a physician every 3 months. The board  
35 may choose the physician. When the reports indicate a  
significant change of condition, the local board, after  
37 notice and a hearing, shall enter an order to modify or  
terminate benefit payments. The order is sent to the  
commissioner. If the board terminates benefits, the  
firefighter is presumed able to resume regular employment  
duties.

39   §18632. Certification of fund

41           The commissioner and the state board of trustees shall  
43 certify the actuarial and financial soundness of the fund every 2  
45 years. The state board shall employ a qualified actuary and a  
certified public accountant to assist in the required  
certification.

47   §18633. No repeal of statutory authority

49           This article does not repeal the statutory authority for any  
51 existing or current pension plan. The provisions of this article  
are not to be interpreted to affect fully paid firefighters or  
their pension systems in any way.

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## STATEMENT OF FACT

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This bill provides a pension system and death and disability benefits for volunteer firefighters.