

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 528

H.P. 374

House of Representatives, February 11, 1991

Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HANDY of Lewiston.

Cosponsored by Senator McCORMICK of Kennebec, Representative O'DEA of Orono and Representative DUTREMBLE of Biddeford.

STATE OF MAINE

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

An Act to Permit Portability of Teacher Retirement Credits.



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

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Sec. 1. 5 MRSA c. 429 is enacted to read:

CHAPTER 429

COMPACT FOR PENSION PORTABILITY FOR EDUCATORS

§18901. Compact; short title

This chapter may be known and cited as the "Compact for Pension Portability for Educators."

The interstate compact with respect to pension portability for educators is enacted into law and entered into by this State with all states legally joining in the compact in a form that is substantially as follows.

§18902. Findings -- Article I

The parties to this compact find as follows.

1. Flexibility of work force. Interstate mobility of professional employees of public schools, colleges and universities serves the public interest by providing for a more flexible work force that is better able to match jobs to employees, thereby helping to avoid shortages in particular geographic areas.

2. Forfeiture of benefits. Interstate mobility of professional employees of public schools, colleges and universities is impeded by the fact that, under the pension plans in which most employees participate, the employees who move from one state to another generally suffer a substantial forfeiture of earned pension benefits.

3. Increased pension portability. An agreement among the states to provide increased pension portability for the professional employees of public schools, colleges and universities will reduce one of the major barriers to the interstate mobility of those employees.

§18903. Definitions -- Article II

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings.

1. Associated. A pension plan is "associated" with a state if the pension plan is maintained by the state or a political subdivision of the state.

2 2. Educator. "Educator" means a person employed by a
public school, college or university to teach students.

4 3. Eligible educator. "Eligible educator" means an
6 educator who:

8 A. Accrues pensionable service in a pension plan associated
with a state by reason of the educator's employment by a
10 public school, college or university in that state after
this compact becomes effective; and

12 B. Accrued at least one year of pensionable service in a
pension plan associated with another state by reason of the
14 educator's employment by a public school, college or
16 university in that state.

18 4. Exporting plan. "Exporting plan" means a pension plan
in which an eligible educator previously accrued, but is no
20 longer accruing, pensionable service and from which the eligible
educator has not received any pension benefits.

22 5. Importing plan. "Importing plan" means the pension plan
24 in which an eligible educator presently is accruing pensionable
service.

26 6. Pensionable service. "Pensionable service" means a
28 period of employment of an eligible educator by a public school,
college or university that is included by a pension plan in
30 calculating the pension benefits to which the eligible educator
is entitled.

32 7. Pension plan. "Pension plan" means a plan, program,
34 system, fund or other operation that provides pension benefits to
educators.

36 8. State. "State" means a state of the United States, the
38 District of Columbia, or any territory or possession of the
United States that is a party to this compact.

40 9. Stipulated rate. "Stipulated rate" means:

42 A. For an exporting plan, the average annual yield on
44 pension plan assets, net of administrative costs,
experienced by the pension plan during the period from the
46 first day of the fiscal year to which the contribution in
question applies through the end of the fiscal year
48 immediately preceding the date on which the money is either
transferred from the exporting plan to the importing plan,
50 or paid to the eligible educator, as the case may be; and

2 B. For an importing plan, the average annual yield on
4 pension plan assets experienced by the pension plan during
6 the period from the first day of the fiscal year to which
8 the contribution would have applied through the end of the
 fiscal year immediately preceding the date on which the
 money is transferred from the exporting plan to the
 importing plan.

10 §18904. Procedures -- Article III

12 Each state that is a party to this compact shall establish
14 and maintain procedures adequate to effectuate the transfer of
16 money and pensionable service from an exporting plan to an
 importing plan in accordance with the following provisions.

18 1. Transfer of contribution. At the request of an eligible
20 educator who has complied with the application procedures of the
22 states with which the exporting plan and importing plan are
 associated, the exporting plan must transfer to the importing
 plan an amount of money that is equal to the lesser of the
 following 2 sums:

24 A. The local contributions made to the exporting plan by or
26 on behalf of the eligible educator, plus interest calculated
 at the stipulated rate for the exporting plan; or

28 B. The total contributions that would have been made to the
30 importing plan by or on behalf of the eligible educator if
32 the eligible educator had been accruing pensionable service
34 in the importing plan for the entire period during which the
 educator was accruing pensionable service in the exporting
 plan, assuming employment at the same salary, plus interest
 calculated at the stipulated rate for the importing plan.

36 2. Credit with pensionable service. Upon receipt of the
38 money transferred pursuant to subsection 1, the importing plan
40 must credit the eligible educator with pensionable service in the
 importing plan as follows.

42 A. When the amount of money transferred is the sum
44 calculated pursuant to subsection 1, paragraph A, the
46 importing plan must, for purposes of vesting and determining
48 the date of eligibility to begin receiving pension benefits,
50 credit the eligible educator with the amount of pensionable
 service accrued in the exporting plan. For purposes of the
 amount of the pension benefits to be received by the
 eligible educator, the importing plan must credit the
 eligible educator with an amount of pensionable service
 calculated as follows:

2 (1) The amount of pensionable service that the
4 eligible educator accrued in the exporting plan
6 multiplied by a fraction, the numerator of which is the
8 amount of money calculated under subsection 1,
 paragraph A, plus any supplementary payments made
 pursuant to subsection 2, paragraph B, and the
 denominator of which is the amount of money calculated
 under subsection 1, paragraph B.

10 B. When the amount of money transferred to the importing
12 plan on behalf of an eligible educator is the sum calculated
14 under subsection 1, paragraph A, the eligible educator may
16 elect to make supplementary payments to the importing plan
18 up to the amount of the difference between the sum
20 transferred and the sum calculated under subsection 1,
22 paragraph B. These supplementary payments may be made by
24 the eligible educator in conjunction with the transfer of
26 money from the exporting plan to the importing plan, or at
28 any time thereafter before the eligible educator receives
 any pension benefits from the importing plan, in such
 minimum amounts as may be required by the importing plan,
 provided that the monetary value of any supplementary
 payments made subsequent to the transfer of money from the
 exporting plan to the importing plan is adjusted, as
 determined by the actuary of the importing plan, to reflect
 the period elapsed between the date the money is transferred
 from the exporting plan and the date the supplementary
 payment is made.

30 3. Retention of money in exporting plan. When the amount
32 of money transferred from the exporting plan to the importing
34 plan is the sum calculated pursuant to subsection 1, paragraph B,
36 any money remaining to the credit of the eligible educator in the
 exporting plan is retained in the exporting plan and used as
 follows:

38 A. For transfer to another importing plan at the request of
40 the eligible educator in accordance with the terms of this
 compact;

42 B. To pay pension benefits to the eligible educator if the
44 educator again becomes a participant in the exporting plan;
 or

46 C. For payment to the eligible educator, plus interest
48 calculated at the stipulated rate for the exporting plan,
50 when notification has been received from the eligible
 educator that the educator has begun to receive pension
 benefits from the importing plan.

2 4. Subsequent transfers. There is no limit on the number
4 of transfers of money and pensionable service that an eligible
6 educator may make from an exporting plan to an importing plan
8 under this compact. In the case of a subsequent transfer, money
10 previously transferred to an importing plan from an exporting
12 plan, for purposes of the subsequent transfer, is considered
14 "contributions made to the exporting plan by or on behalf of the
16 eligible educator" within the meaning of subsection 1, paragraph
18 A.

20 **§18905. Effective date of compact; withdrawal from compact --**
22 **Article IV**

24 1. Effective date. When 2 or more states enact statutes
26 adopting this compact, it becomes effective in those states on
28 the dates specified in those statutes. Any other state may
30 thereafter become a party to this compact by enacting a statute
32 adopting it and the compact becomes effective in that state on
34 the date specified in that statute.

36 2. Withdrawal from compact. A party state may withdraw
38 from this compact by repealing the statute adopting this compact,
40 provided that a withdrawal is not effective until at least one
42 year after the governor of the withdrawing state has given
44 written notice of the repeal of the statute adopting this compact
46 to the governors of all other party states. The withdrawal of a
48 party state does not relieve any pension plan associated with
50 that state of its obligation to pay to an eligible educator, on
 whose behalf money has been transferred under this compact prior
 to the effective date of that withdrawal, the pension benefits to
 which the eligible educator is entitled under this compact.

52 **§18906. Other arrangements unaffected -- Article V**

54 Nothing contained in this compact may be construed to
56 prevent or inhibit states that are parties to this compact from
58 entering into other arrangements that are consistent with the
60 terms of this compact to effectuate the purposes set forth in
62 section 18902.

64 **§18907. Construction and severability -- Article VI**

66 1. Liberal construction. This compact should be liberally
68 construed so as to effectuate the purposes set forth in section
70 18902.

72 2. Severability. If any provision of this compact, or
74 application of a provision, is held by a state or federal court
76 to be invalid with respect to a particular party state, that
78 holding does not affect the validity of the provision, or

2 application of the provision, in any other party state. .The
3 provisions of this compact are severable and, as to the party
4 state subject to the court holding, this compact in all other
5 respects remains in effect. If the party states not subject to
6 the court holding believe that the provision of this compact, or
7 application of the provision, that has been declared invalid is
8 not severable, they may, by majority vote, require the party
9 state subject to the court holding to withdraw from this
10 compact. The withdrawal is effective immediately upon that vote,
11 provided that the withdrawal does not relieve any pension plan
12 associated with that party state of its obligation to pay to an
13 eligible educator, on whose behalf money has been or is in the
14 process of being transferred under this compact prior to the
15 effective date of the withdrawal, the pension benefits to which
16 the eligible educator is entitled under this compact.

17 **Sec. 2. Legislative intent.** The Legislature intends to enter
18 into the interstate Compact for Pension Portability for Educators
19 with Rhode Island and all other states legally joining in the
20 compact. Any deviation in this Act from the language enacted in
21 Rhode Island is intended only to conform the format and style of
22 the compact to that of the Maine Revised Statutes.

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STATEMENT OF FACT

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This bill enacts a compact for pension portability that has
been adopted in Rhode Island. The bill allows persons who are
employed as teachers to transfer retirement credits between
states.