

MAINE STATE LEGISLATURE

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L.D. 2008

(Filing No. S683)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 809, L.D. 2008, Bill, "An Act to Restore Maine State Retirement Service Credit to Certain Part-time, Seasonal, Intermittent or Legislative Employees"

Amend the bill by striking out the title and substituting the following:

'An Act Related to the Maine State Retirement System'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 5 MRSA §17154, sub-§9 is enacted to read:

9. Improper application of statutes. Notwithstanding the other provisions of this section, additional actuarial and administrative costs resulting from omissions or misrepresentations by an employer as to a member's earnings, service or service credits or from improper application of retirement system statutes or rules regarding earnings, service or service credits must be charged to and paid by the employer that omitted information, provided misinformation or improperly applied the statutes or rules, unless the omission or misrepresentation or improper application results from erroneous information provided by the retirement system. The employer is liable for amounts not recovered from the retiree and for costs incurred by the retirement system in resolving problems caused by the employer's actions. For purposes of this subsection, "employer" means any department of State Government, school administrative unit or participating local district.

Sec. 2. 5 MRSA §17751, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Board determination. The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal

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working time in any year qualifies for one year's service credit. The board shall provide in its rule related to the determination of creditable service for state employees that any part-time or seasonal state employee who was employed during the period beginning January 1, 1989 and ending June 30, 1991 is credited with a full year of creditable service for each year in which that employee is employed for 1,000 or more hours, for as long as that employee is employed by the State. The board's rule must also treat in the same manner any employee first employed before July 1, 1991 who is employed in a position that is in a career ladder in which the employee is required to move from full-time status to seasonal status when accepting a promotion in the employee's career ladder. Section 17001, subsection 13, paragraph E does not apply to an employee who is credited with a full year of creditable service under this provision. Each state department or agency shall submit to the retirement system a list of all employees to whom this provision applies, in the manner and time provided by board rule.

Sec. 3. 5 MRSA §17765 is enacted to read:

§17765. Service terminated due to layoff in the period July 1, 1989 through June 30, 1993

A state employee or teacher member who is terminated from service during the period July 1, 1989 to June 30, 1993 due to lay-off status may purchase the amount of service credit needed to be eligible to retire under section 17851, subsection 3. For purposes of this section "lay-off status" does not include temporary layoff, temporary time off without pay, shutdown days or furlough days. The following conditions apply to a purchase of service credit under this section.

1. Payment. Before any retirement benefit becomes effective, members must pay into the Members' Contribution Fund by a single direct payment or annual direct payments to the retirement system an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the additional benefits that become payable as a result of the additional creditable service. Payments must be made as provided in section 17701, with the following exceptions.

A. Payment in full must be made no later than 3 years after the date of the first payment and the member must then retire.

2 B. The single direct payment or first annual direct payment
3 must be made by June 30, 1993.

4 2. Other benefits. The availability of group life
5 insurance and health benefits, as determined by other law, is not
6 affected by this section.

8 3. Restoration to service after retirement. Section 17855
9 applies to any member who purchases service credit and retires
10 under this section and who is later restored to service.

12 4. Return to service before retirement. A member who
13 purchases service credit under this section and who returns to
14 service before the member retires must be credited with the
15 amount of service credit represented by the amount the member has
16 paid before returning to service. The right to purchase service
17 credit under this section ceases on return to service.

18 **Sec. 4. 5 MRSA §17851, sub-§11, as amended by PL 1987, c. 670,**
19 **is further amended to read:**

22 **11. Maine State Prison employees.** The warden or deputy
23 warden of the Maine State Prison, any officer or employee of the
24 Maine State Prison employed as a guard or in the management of
25 prisoners or any person employed as the supervising officer of
26 those officers or employees or as an advocate at the Maine State
27 Prison qualifies for a service retirement benefit if he that
28 person:

30 A. Was employed in one of those capacities before September
31 1, 1984, and:

32 (1) Completes 20 years of creditable service in one or
33 more of those capacities; and

34 (2) Retires upon or after reaching the age of 50
35 years; or

36 B. Was employed in one of those capacities after August 31,
37 1984, and completed 25 years of creditable service in one or
38 more of those capacities.

40 Notwithstanding any other provision in this section, no person in
41 the employ of the Bangor Pre-Release Center on the effective date
42 of this subsection who would have qualified for a service
43 retirement benefit if the Bangor Pre-Release Center had remained
44 the administrative responsibility of the Maine State Prison may
45 be denied such a benefit by virtue of the transfer of that
46 responsibility to the Charleston Correctional Facility.

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Sec. 5. 5 MRSA §17858, as amended by PL 1991, c. 618, §3 and affected by §7, is further amended to read:

§17858. Retirement incentive option

Any state employee, as defined in section 17001, subsection 40, having reached normal retirement age ~~who retires~~ on or after October 30, 1991 and before July 1, 1993 who retires and who is restored to service is not subject, for up to 3 years, to the earnings limitations set forth in section 17855. Any such person is entitled to all benefits that the person was entitled to at the time of termination by collective bargaining agreements or civil service laws and rules. The retired state employee's salary must be 80% of the employee's salary at the time of termination. The retired state employee is not a member of the retirement system and therefore may not accrue additional creditable service and is not entitled to any other benefits that accrue to an active member of the retirement system. ~~For any state employee who has reached normal retirement age on or before October 30, 1991, the option established in this section must be selected by the state employee by January 31, 1992. For all other state employees for fiscal year 1991-92 only, the~~ The option established in this section must be selected by the state employee within 3 months of reaching normal retirement age or by October 1, 1992, whichever is later.

Sec. 6. P&SL 1991, c. 26, §1 is repealed and the following enacted in its place:

Sec. 1. Retirement coverage for certain teacher aides and similar employees. Notwithstanding the provisions of any other law or rule, any person employed in a position known before September 1, 1991 as teacher aide, library aide or educational technician I who, before September 1, 1991, was promoted to a level II or level III educational technician position may elect to be covered by the retirement system or plan under which that person was covered at the time of promotion. That election may be made only in accordance with the following.

1. A person may make the election only once.
2. The election is effective as of the date of promotion.
3. The election is irrevocable.
4. Each local school administrative unit shall notify each person to whom this section applies who was employed by that unit

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2 at the time of promotion of the opportunity to make the election,
4 inform each person of the nature of the election, receive each
6 person's written election and provide to the Maine State
8 Retirement System a list of all persons making an election,
10 categorized by retirement system or plan elected.

12 5. The Maine State Retirement System must receive the
14 election list by September 30, 1992.

16 6. A person not making an election is subject to the
18 provisions of Title 5, Part 20 as of the date of promotion.

20 The Maine State Retirement System shall notify school
22 administrative units of this section and receive and
24 appropriately process election lists. The Maine State Retirement
26 System is not responsible for identifying or notifying persons to
28 whom this section applies or for receiving individual elections.
30 Local school administrative units shall prescribe the form in
32 which the written individual election must be made and the date
34 by which it must be received by the unit.

36 Any person hired as or promoted to a level II or level III
38 educational technician position on or after September 1, 1991 is
40 subject to the provisions of Title 5, Part 20.

FISCAL NOTE

42 Section 1 of this bill, related to improper application of
44 statutes by employers, will reduce the actuarial and
46 administrative costs of the Maine State Retirement System.
48 However, the additional local costs of requiring the payment of
additional actuarial and administrative costs will require full
funding by the State as a state mandate pursuant to the Maine
Revised Statutes, Title 30-A, section 5684. The General Fund
appropriations required to fund these costs can not be estimated
at this time.

Section 2 of the bill, increasing the creditable service
earned by certain part-time, seasonal or Legislative employees
who were members of the Maine State Retirement System prior to
July 1, 1991, will reduce the actuarial gains to be realized by
the system. The increase of future employer contributions for
state employees could be as much as \$53,000 annually.

The system will also incur additional administrative costs.
The \$35,000 of additional initial costs and other ongoing costs
will not appreciably affect contribution rates.

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2 Section 4 of this bill technically adds an additional
3 position to the special retirement plan for certain employees of
4 the Maine State Prison. The Department of Corrections has
5 budgeted for contributions to the Maine State Retirement System
6 as if this position were still eligible under the special plan.
7 Therefore, no additional funding is required in the current
8 biennium. However, both the Department of Corrections and the
9 Maine State Retirement System will not realize some minor, future
10 savings.'

12 STATEMENT OF FACT

14 This amendment replaces the original bill.

16 Section 1 permits the Maine State Retirement System to
17 collect from the employer any additional actuarial and
18 administrative costs that result from an employer's improper
19 application of retirement statutes and rules, provision of
20 misinformation or omission of information.

22 Section 2 requires the retirement system to permit part-time
23 and seasonal state employees who were employed between January 1,
24 1989 and June 30, 1991 to accumulate one year of creditable
25 service for each year in which the employee is employed for 1,000
26 or more hours. The same provisions apply to an employee whose
27 position is in a career ladder that requires the employee to move
28 from full-time to seasonal status when accepting a promotion.

30 Section 3 permits state employees or teachers who are laid
31 off to purchase, at no cost to the State, service credit needed
32 to be eligible to retire.

34 Section 4 ensures that the position of advocate at the Maine
35 State Prison continues to be under the special retirement plan
36 that covers employees of the Maine State Prison.

38 Section 5 makes the retirement incentive enacted in 1991
40 available for employees who retire before July 1, 1993.

42 Section 6 permits certain employees promoted to level II or
43 level III educational technician positions to elect to continue
44 coverage under the retirement system or plan under which those
45 employees were covered before promotion.

46 Reported by the Minority for the Committee on Aging,
Retirement and Veterans. Reproduced and Distributed Pursuant
to Senate Rule 12.
(3/24/92) (Filing No. S-683)