

MAINE STATE LEGISLATURE

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22
R 088

L.D. 1058

DATE: 3/24/94

(Filing No. H-913)

M I N O R I T Y
AGING, RETIREMENT & VETERANS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 785, L.D. 1058, Bill, "An Act to Clarify Mandatory Coverage Requirements for Participating Local Districts within the Maine State Retirement System"

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 §18201, sub-§§5 and 6 are enacted to read:

5. Elective membership and withdrawal from membership in local districts without agreement under the Federal Social Security Act, Section 218. A local district without an agreement under the Federal Social Security Act, Section 218 may provide for elective membership and withdrawal from membership of its employees in accordance with section 18252-A. The district shall file with the board a duly certified copy of the vote providing for elective membership under section 18252-A.

6. Compliance with 26 Code of Federal Regulations Part 31 and Section 401 of the federal Internal Revenue Code. The local district is responsible for compliance with 26 Code of Federal Regulations, Part 31, with Section 401 of the federal Internal Revenue Code and with other relevant federal law and rules with respect to any employees that the district determines to be exempt from membership in the retirement system under subsection 3 and with respect to any employees who decline to be members of

COMMITTEE AMENDMENT

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2 or who withdraw from the retirement system under subsection 5 and
3 section 18252-A.

4 Sec. 2. 5 MRSA §18251, sub-§1, as amended by PL 1991, c. 619,
5 §12 and affected by §18, is further amended to read:

6 1. **Compulsory membership.** Membership is compulsory for all
7 employees entering the service of a participating local district
8 after the date of establishment for the participating local
9 district, except as otherwise provided by subsection 2; section
10 18201, subsection 3; section 18252; section 18252-A; or section
11 18256.

12
13 Sec. 3. 5 MRSA 18252-A is enacted to read:

14
15 **§18252-A. Membership in district without coverage**
16 **under the Federal Social Security Act, Section 218**

17 1. **Membership.** An employee of a participating local
18 district that provides membership in accordance with section
19 18201, subsection 5, may elect or decline membership in the
20 retirement system, may withdraw from membership in the retirement
21 system and may change that decision to elect, decline or
22 withdraw, in accordance with the following.

23 A. An employee hired by the participating local district,
24 or rehired following a break in service, after the date on
25 which the district votes to provide for membership in
26 accordance with section 18201, subsection 5, shall elect or
27 decline membership in the retirement system at the time of
28 hiring or rehiring.

29 B. An employee of the local district who is a member on the
30 date on which the district votes to provide for membership
31 in accordance with section 18201, subsection 5, may elect on
32 and after that date to withdraw from the retirement system.
33 An employee who withdraws may withdraw, at the employee's
34 discretion, accumulated contributions in accordance with the
35 procedures in section 18306.

36 C. At any time during the first 24 months following the
37 employee's date of hire or rehire, an employee electing or
38 declining membership under paragraph A may change that
39 decision, but the employee may do so only once in the
40 24-month period. Regardless of whether the 24-month period
41 has expired, the employee may not change that decision after
42 the date on which the participating local district enters
43 the consolidated retirement plan.

2 D. At any time during the first 24 months following the
4 date of the employee's decision to withdraw under paragraph
6 B, an employee may change that decision, but the employee
8 may do so only once in the 24-month period. Regardless of
whether the 24-month period has expired, the employee may
not change that decision after the date on which the
participating local district enters the consolidated
retirement plan.

10 E. An employee's decision under paragraph A or B is
12 irrevocable after the employee has once changed the initial
14 decision or after the expiration of the 24-month period, or
16 after the date on which the district enters the consolidated
retirement plan, whichever occurs earlier, regardless of
whether the employee's employment status or position changes
after the election becomes irrevocable.

18 F. The membership of an employee who decides under
20 paragraph A or B not to be a member of the retirement system
22 and who later changes that decision and becomes a member is
prospective only and the member may not purchase the time
during which the employee was not a member.

24 2. Elective membership not available under consolidated
26 plan. A participating local district that joins the consolidated
28 retirement plan established under chapter 427 may not begin or
30 continue to provide for membership under section 18201,
32 subsection 5 after the date on which participation of that
district in the consolidated retirement plan, as provided in
section 18804, subsection 4, begins. An employee's decision
under this section made before this date, if irrevocable before
that date, remains irrevocable and, if not yet irrevocable,
becomes irrevocable on that date.

34 3. District responsible for membership determinations. The
36 participating local district is responsible for providing
38 procedures by which employees elect or decline membership,
40 withdraw from membership and change their decisions; for
42 informing the retirement system as to employee decisions in
44 accordance with procedures established by the executive director;
46 and for making all administrative decisions, including the final
48 administrative decision in any dispute related to an employee's
decision under subsection 1, paragraph A, B, C or D and any
related membership issue. Neither the retirement system nor the
system's board of trustees has responsibility or jurisdiction to
make the final administrative decision regarding these matters.
The retirement system is obliged only to ensure that its records
accurately reflect the information provided by the district, the
district's decision as to any of these matters and the legally
cognizable outcome of any dispute related to any of these matters.

2 4. Retirement system responsibility and authority for other
 4 matters. With respect to matters related to participation and
 6 membership other than those specified in subsection 3, the
 8 retirement system and the system's board of trustees retain
 10 responsibility and authority according to applicable retirement
 system law and rules as to a participating local district and its
 employees to whom this section applies, including the authority
 to make final administrative decisions.

12 5. Application. This section does not apply to employees
 14 of participating local districts who are employed in part-time,
 seasonal or temporary positions.'

16 Further amend the bill by inserting at the end before the
 statement of fact the following:

18 **FISCAL NOTE**

20 The Maine State Retirement System will incur some minor
 22 additional costs to administer new provisions related to optional
 24 membership for employees of certain participating local
 districts. These costs can be absorbed within the system's
 existing budgeted resources.'

26
 28 **STATEMENT OF FACT**

30 This amendment is the minority report of the Joint Standing
 32 Committee on Aging, Retirement and Veterans. It replaces the
 34 original bill with provisions that allow participating local
 36 districts who do not have social security coverage for their
 employees to make participation in the Maine State Retirement
 System elective. The election becomes irrevocable 2 years from
 the date of election or when the district enters the consolidated
 retirement plan, whichever comes first. If an employee does
 38 change the election, the employee is not entitled to purchase
 service for time during which the employee was not a member.
 40 Once the district joins the consolidated retirement plan,
 elective membership will no longer be available. The amendment
 42 also adds a fiscal note to the bill.