

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

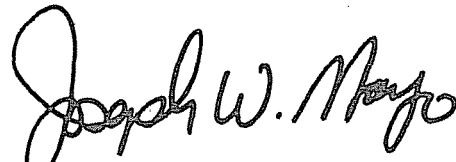
No. 1117

H.P. 831

House of Representatives, April 1, 1993

An Act to Improve the Functions and Operations of the Maine State Retirement System.

Submitted by the Maine State Retirement System pursuant to Joint Rule 24.
Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative WENTWORTH of Arundel.
Cosponsored by Representatives: JALBERT of Lisbon, QUINT of Paris, Senators:
McCORMICK of Kennebec, TITCOMB of Cumberland.

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

2
3 **Sec. 1. 2 MRSA §6, sub-§5**, as amended by PL 1991, c. 837, Pt.
4 B, §1 and c. 841, §1, is repealed and the following enacted in
5 its place:

6 **5. Range 86.** The salaries of the following state officials
7 and employees are within salary range 86:

8 Director of Labor Standards;

9 Deputy Chief of the State Police;

10 State Archivist;

11 Director of Maine Geological Survey;

12 Executive Director, Maine Land Use Regulation Commission;

13 Chair, Maine Unemployment Insurance Commission;

14 Child Welfare Services Ombudsman;

15 Director of the Maine Drug Enforcement Agency; and

16 Executive Director, Maine Science and Technology Commission.

17 **Sec. 2. 2 MRSA §6-D**, as enacted by PL 1989, c. 483, Pt. A,
18 §2, is amended to read:

19 **§6-D. Salary of the Executive Director and Deputy Directors of**
20 **the Maine State Retirement System**

21 Notwithstanding Title 5, section 17105, subsection 3,
22 ~~paragraph--C,~~ the salary of the Executive Director and deputy
23 directors appointed by the Executive Director of the Maine State
24 Retirement System shall--be are established by the Board of
25 Trustees of the Maine State Retirement System and may not exceed
26 the maximum rate of salary which that may be received by a state
27 employee.

28 **Sec. 3. 5 MRSA §17101, sub-§1**, as enacted by PL 1985, c. 801,
29 §§5 and 7, is amended to read:

30 **1. Purpose.** There is established a retirement system, the
31 functions and operations of which are under the supervision of
32 the board, for the purpose of providing retirement allowances and
33 other benefits under this Part for employees.

34 **Sec. 4. 5 MRSA §17101, sub-§4**, as enacted by PL 1985, c. 801,
35 §§5 and 7, is repealed.

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Sec. 5. 5 MRSA §17101, sub-§5 is enacted to read:

5. Body corporate and politic. The retirement system is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part are held to be the performance of essential government functions.

Sec. 6. 5 MRSA §17103, sub-§7, as amended by PL 1989, c. 483, Pt. A, §§27 and 63, is further amended to read:

7. Administrative and financial decisions. The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system and direct cash receipts as it considers appropriate, notwithstanding section 131. The board is exempt from the requirements of chapters 143, 153 and 155, except that the board shall comply with all payroll and personnel processing requirements in chapter 143, with health and safety requirements and programs of the Bureau of Public Improvements and is subject to the requirements of section 1742, subsection 19. Notwithstanding any other provision of law, the board, as the employer of the staff of the retirement system and as the executive body, shall establish policies and make decisions on matters pertaining to the administration and operations of the Maine State Retirement System as an independent agency, including, but not limited to, personnel and payroll, accounting and financial matters, acquisition and disposition of capital assets and data processing. The board may delegate these duties and responsibilities as it considers appropriate. Board policies regarding the operation of its administrative offices must be consistent with the health and safety requirements and programs of the Bureau of General Services. The Department of Finance Administrative and the ~~Department of Administration~~ Financial Services shall provide survivor benefit payroll, retirement payroll and contribution refund services and, at their option, may provide other services under these chapters to the Maine State Retirement System at the request of the board. When the board utilizes the services under these chapters, it shall comply with the requirements and procedures of those services.

A. If the decision is related to or results in rules, rules shall must be adopted as provided in subsection 4.

B. If the decision determines the rights, credits or privileges of an individual member or group of members, the determination shall ~~be~~ is considered an adjudicatory proceeding under chapter 375, subchapter IV and shall may be

2 made only after the giving of notice as required in that
subchapter and after hearing if a hearing is requested by a
4 person whose rights, credits or privileges are to be
determined. Any A hearing shall must be conducted in
6 accordance with chapter 375.

8 **Sec. 7. 5 MRSA §17103, sub-§11, ¶C**, as amended by PL 1989, c.
483, Pt. A, §29, is further amended to read:

10 C. A discussion of the progress toward meeting the goals of
chapter 161; and

12 **Sec. 8. 5 MRSA §17103, sub-§11, ¶D**, as enacted by PL 1989, c.
14 483, Pt. A, §30, is amended to read:

16 D. A review of the operations of the retirement system,
including a summary of administrative expenses and
18 improvements in the delivery of services to members of the
retirement system; and

20 **Sec. 9. 5 MRSA §17103, sub-§11, ¶E** is enacted to read:

22 E. A budget report showing the budget status of the
24 administrative operations and functions of the system for
the current fiscal year relative to the budget for the
26 current fiscal year and, for the committee's review, the
proposed budget for the upcoming fiscal year.

28 **Sec. 10. 5 MRSA §17105, sub-§3**, as amended by PL 1987, c. 402,
30 Pt. A, §§66 and 67, is repealed and the following enacted in its
place:

32 3. Staff. The executive director shall employ personnel as
34 considered necessary and in accordance with board policy to
transact the business of the system.

36 **Sec. 11. 5 MRSA §17108, sub-§1**, as enacted by PL 1985, c. 801,
38 §§5 and 7, is amended to read:

40 **1. Contract.** The board may contract with one or more
fiduciaries or registered investment advisors. All contracts with
42 fiduciaries or registered investment advisors must have the
approval of a majority of the Governor's board.

44 **Sec. 12. 5 MRSA §17110, sub-§1, ¶D**, as enacted by PL 1985, c.
46 801, §§5 and 7, is amended to read:

48 D. All contracts or agreements entered into between the
board and the custodian bank, trust company or safe deposit
50 company selected by the board must have the approval of a
majority of the Governor's board.

2 **Sec. 13. 5 MRSA §17154, sub-§2**, as enacted by PL 1985, c. 801,
3 §§5 and 7, is amended to read:

4
5 **2. Budget estimates.** The board shall submit budget
6 estimates of contributions required to fund benefits for state
7 employees and teachers to the State Budget Officer in accordance
8 with section 1665.

10 **Sec. 14. 5 MRSA §18253, sub-§1, ¶D** is enacted to read:

11 D. For the purposes of this section, an employee of the
12 Maine State Retirement System who is a member on January 1,
13 1994 is considered to be reemployed with a new employer. If
14 an employee returns to state service within 2 years of
15 January 1, 1994, all funds transferred to the account of the
16 Maine State Retirement System as the new employer on behalf
17 of the employee from the State's account must be returned to
18 the State's account. For the purpose of benefit accruals,
19 the employee must be treated as if the employee had remained
20 in state service throughout the period in question.

21 **Sec. 15. 14 MRSA §8102, sub-§4**, as amended by PL 1989, c. 443,
22 §21, is further amended to read:

23 **4. State.** "State" means the State of Maine or any office,
24 department, agency, authority, commission, board, institution,
25 hospital or other instrumentality thereof of the State, including
26 the Maine Turnpike Authority, the Maine Port Authority, the Maine
27 Technical College System, the Maine Veterans' Homes, the Maine
28 State Retirement System and all such other state entities.

29 **Sec. 16. 26 MRSA §962, sub-§7, ¶A**, as amended by PL 1991, c.
30 843, §4, is further amended to read:

31 **A.** Any officer, board, commission, council, committee or
32 other persons or body acting on behalf of:

33 (1) Any municipality or any subdivision of a
34 municipality;

35 (2) Any school, water, sewer or other district;

36 (3) The Maine Turnpike Authority;

37 (4) Any board of directors functioning as a regional
38 intermediate education unit pursuant to Title 20-A,
39 section 7730; or

40 (5) Any county or subdivision of a county; or

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(6) The Maine State Retirement System; or

Sec. 17. Transition provision. The following provisions apply to the Maine State Retirement System on the effective date of this Act.

1. Funds transferred. All trust funds and invested assets of the Maine State Retirement System must be transferred to the Maine State Retirement System in its capacity as an independent agency.

2. Rules and procedures. All rules and procedures currently in effect and operation pertaining to the Maine State Retirement System remain in effect until rescinded or amended by the Board of Trustees of the Maine State Retirement System in its capacity as an independent agency.

3. Equipment and property transferred. All equipment and property of the Maine State Retirement System must be transferred to the Maine State Retirement System in its capacity as an independent agency.

4. Contracts and agreements. All contracts and agreements currently in effect with the Maine State Retirement System remain in effect following the effective date of this Act until rescinded, terminated or modified by the board of trustees.

5. Personnel transferred. Classified and unclassified employees assigned to the Maine State Retirement System must be transferred from state employment to the Maine State Retirement System in its capacity as an independent agency.

Fringe benefits of these personnel, including vacation and sick leave, health and life insurance and retirement, remain with the transferred personnel. The rights and benefits under current statutes, rules and collective bargaining agreements continue for all transferred personnel. If these collective bargaining agreements expire, or have expired, the status, rights and benefits of covered employees must be maintained according to applicable labor law principles. All personnel transferred from state employment to the Maine State Retirement System as an independent agency retain all applicable seniority rights and privileges and all other rights and privileges with regard to employment in state service for a period of 2 years from the effective date of this Act.

After the end of the 2-year period, these employees have the same rights and privileges as Maine State Retirement System employees hired on and after the effective date of this Act based

2 on current personnel rules, policies and collective bargaining
3 agreements applicable to Maine State Retirement System
4 employees. Transferred employees may choose to be covered under
5 the Maine State Retirement System personnel system and benefits
6 before the 2-year period expires.

7 The Department of Administrative and Financial Services
8 shall assist the Board of Trustees of the Maine State Retirement
9 System with the orderly implementation of these provisions,
10 completed by the effective date of this Act.

11 6. Board of trustees. Current members of the Board of
12 Trustees of the Maine State Retirement System shall serve as
13 members of the Board of Trustees of the Maine State Retirement
14 System in its capacity as an independent agency until their terms
15 expire.

16 7. Transferred employees. All transferred employees that
17 are or would have been in either the state administrative
18 services, professional and technical services or the state
19 supervisory services bargaining units must be transferred to the
20 same respective units within the Maine State Retirement System.
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22 All transferred personnel who are currently represented by a
23 bargaining agent continue to be represented by that bargaining
24 agent. Following the effective date of this Act, a petition for
25 decertification or certification of a new bargaining agent for
26 the newly created bargaining unit may be filed in accordance with
27 the Maine Revised Statutes, Title 26, chapter 9-A and the rules
28 of the Maine Labor Relations Board.
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30 8. Board of trustees as successor employer. For the
31 purposes of applying this Act and collective bargaining
32 agreements governing employees of the Maine State Retirement
33 System, the Board of Trustees of the Maine State Retirement
34 System in its capacity as an independent agency is considered the
35 successor employer to and assumes the obligations of the State.
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37 9. Transition accomplished. The board of trustees shall
38 appoint an executive director as of the effective date of this
39 Act. The Maine State Retirement System will take the steps
40 necessary for transition and will function as an independent
41 agency on and after January 1, 1994. Except as otherwise
42 provided by this Act, all references in the public laws of the
43 State to the Board of Trustees of the Maine State Retirement
44 System refer to the Board of Trustees of the Maine State
45 Retirement System in its capacity as an independent agency.
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STATEMENT OF FACT

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4 This bill completes the process of establishing the Maine
6 State Retirement System as a public instrumentality of the
8 State. The system's board of trustees currently has complete
10 responsibility for the management and investment of the system's
12 assets, and the system currently carries out all of its own
14 administrative and management functions except for personnel
16 functions. The bill puts authority and responsibility for
18 personnel functions under the board of trustees and provides for
20 the completion of transition of the system to independent status
22 as a public instrumentality.

14 The bill provides for a review of the system's
16 administrative budget prior to the beginning of each fiscal year
18 by the legislative committee having jurisdiction over matters
20 related to the system.

20 The bill implements the provision in the Governor's budget
22 bill that reflects the savings to be realized in the biennium
from the change to public instrumentality status.