

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 306

H.P. 228

House of Representatives, January 27, 1995

**An Act to Change the Retirement Provisions of Department of
Corrections Personnel.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.
Cosponsored by Representative: KONTOS of Windham, Senator: BUSTIN of Kennebec.

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

Sec. 1. 5 MRSA §17001, sub-§23, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

23. **Normal retirement age.** "Normal retirement age" means the specified age, the years of service requirement or any combination of age and years of service requirements at which a member becomes eligible for retirement benefits and at which those benefits may not be reduced under section 17852, subsection 3; section 17852, subsection 4, paragraph C; ~~section 17852, subsection 10, paragraph G~~ and section 18452, subsection 3.

Sec. 2. 5 MRSA §17154, sub-§10, as amended by PL 1993, c. 580, §2 and affected by §3, is further amended to read:

10. **Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives.** Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive in a manner prescribed in rules adopted by the board. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section 17852, subsection 3 or 3-A, or subsection 4, paragraph C or C-1 ~~or subsection 10, paragraph G or G-1~~; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3. For purposes of this paragraph, "employer" means, in the case of a member who is a state employee, the department of State Government by which the member was last employed prior to retirement; in the case of a member who is a teacher, the local school administrative unit by which the member was last employed prior to retirement; and in the case of a member who is an employee of a participating local district, the district by which the member was last employed prior to retirement. An early retirement incentive that is part of a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 is not subject to this subsection for the initial term of that agreement.

Sec. 3. 5 MRSA §17851, sub-§11, as amended by PL 1991, c. 857, §2, is further amended to read:

11. **Certain Department of Corrections employees.** The warden or deputy warden of the Maine State Prison, the superintendent or assistant superintendent of the Maine Correctional Center, any officer or employee of the Maine State Prison or the Maine Correctional Center employed as a guard or in the management of prisoners or any person employed as the supervising officer of

those officers or employees or as an advocate at the Maine State Prison or the Maine Correctional Center qualifies for a service retirement benefit if that person:

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

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

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

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

(1) Completes 25 years of creditable service in one or more of these capacities; and

(2) Retires upon or after reaching the age of 55 years.

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

Sec. 4. 5 MRSA §17852, sub-§10, as amended by PL 1993, c. 410, Pt. L, §§40 and 41 is further amended to read:

10. Certain Department of Corrections employees. The amount of the service retirement benefit for members qualified under section 17851, subsection 11, ~~shall be~~ is computed as follows.

A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of ~~his~~ the member's average final compensation and an additional 2% of ~~his~~ the average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 11, paragraph A.

B. For members who qualify under section 17851, subsection 11, paragraph B, ~~and who retire upon or after reaching the age of 55,~~ the retirement benefit ~~shall be~~ is computed in accordance with subsection 1.

2 C. -- For members who qualify under section 17851, subsection
11, paragraph B, and who retire before reaching the age of
55, the retirement benefit is determined in accordance with
4 subsection 1, except that:

6 (1) -- The amount arrived at under subsection 1 is
reduced by applying to that amount the percentage that
8 a life annuity due at age 55 bears to the life annuity
due at the age of retirement, and

10 (2) -- For the purpose of making the computation under
12 subparagraph (1), the board approved tables of
annuities in effect at the date of the member's
14 retirement is used.

16 This paragraph applies to members who, on July 1, 1993, have
10 years of creditable service. For the purpose of
18 calculating creditable service under this subsection only,
creditable service includes time during which a member
20 participated in the voluntary cost savings plan or the
voluntary employee incentive program, authorized by Public
22 Law 1989, chapter 702, section 6 and Public Law 1991,
chapter 591, Part BB and chapter 780, Part VV, or 10 years
24 of combined creditable service under this Part and Title 3,
chapter 29, or creditable service available to a member that
26 the member was eligible to purchase on June 30, 1993 and
that the member does purchase in accordance with rules
28 adopted by the board.

30 C.1. -- For persons qualifying under section 17851, subsection
11, paragraph B, and who retire before reaching the age of
32 55, the retirement benefit is determined in accordance with
subsection 1, except that the benefit is reduced by 6% for
34 each year that the member's age precedes age 55.

36 This paragraph applies to members who, on July 1, 1993, do
not have 10 years of creditable service.

38
40 **Sec. 5. 5 MRSA §17857, sub-§3,** as repealed and replaced by PL
1989, c. 79, §1, is amended to read:

42 **3. Reduction of benefits.** Upon retirement before reaching
age 60, the service retirement benefit of a member who
44 transferred or who was restored to service subject to subsection
2 shall must be reduced as follows.

46
48 A. If the member transferred under the provisions of
subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C ~~or section-17852, subsection-10, paragraph-C~~; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C ~~or section-17852, subsection-10, paragraph-C~~; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C ~~or section-17852, subsection-10, paragraph-C~~; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

Sec. 6. 5 MRSA §17857, sub-§3-A, as enacted by PL 1993, c. 410, Pt. L, §42, is amended to read:

3-A. Reduction of benefits on and after July 1, 1993. On and after July 1, 1993, upon retirement before reaching the age

of 62, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 4, paragraph C-1 ~~or section 17852, subsection 10, paragraph C-1~~; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-A.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 4, paragraph C-1 ~~or section 17852, subsection 10, paragraph C-1~~; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-A.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A.

D. If the member was transferred subject to subsection 2, paragraph D and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 4, paragraph C-1 ~~or section 17852, subsection 10, paragraph C-1~~; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A.

2 This subsection applies to members who on July 1, 1993 have
4 less than 10 years of creditable service under this Part.
6 For the purpose of calculating creditable service under this
8 subsection only, creditable service includes time during
10 which a member participated in the voluntary cost savings
12 plan or the voluntary employee incentive program, authorized
14 by Public Law 1989, chapter 702, ~~section F-6~~ Part F, section
 6 and Public Law 1991, chapter 591, Part BB and chapter 780,
 Part VV, or 10 years of combined creditable service under
 this Part and Title 3, chapter 29, or creditable service
 available to a member that the member was eligible to
 purchase on June 30, 1993 and that the member does purchase
 in accordance with rules adopted by the board.

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STATEMENT OF FACT

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 Currently, employees of the Maine State Prison employed
22 prior to September 1, 1984 qualify for a service retirement if
24 they retire on or after age 50 and have 20 years of service.
 Those who were employed after September 1, 1984 qualify if they
26 retire with 25 years of service regardless of age. This bill
 changes the provisions for the latter group to require that
 retirement be after the age of 55. It also extends these
28 retirement provisions to employees of the Maine Correctional
 Center.