

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 745

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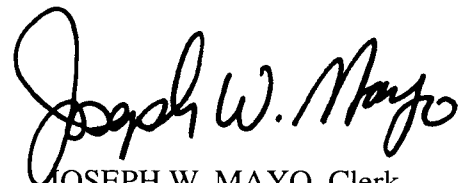
H.P. 549

House of Representatives, March 7, 1995

**An Act to Allow Employees of Local Districts to Decline Membership in  
the Maine State Retirement System and Choose Other Alternatives.**

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Reference to the Committee on Labor suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative STONE of Bangor.

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

4 **Sec. 1. 5 MRSA §18201, sub-§§5 and 6** are enacted to read:

6 5. Elective membership and withdrawal from membership in  
8 local districts without agreement under the federal Social  
10 Security Act, Section 218. A local district without an agreement  
12 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.

14 6. Compliance with 26 Code of Federal Regulations, Part 31  
16 and Section 401 of the federal Internal Revenue Code. The local  
18 district is responsible for compliance with 26 Code of Federal  
20 Regulations, Part 31, with Section 401 of the federal Internal  
22 Revenue Code and with other relevant federal law and rules with  
24 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  
or who withdraw from the retirement system under subsection 5 and  
section 18252-A.

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

28 **1. Compulsory membership.** Membership is compulsory for all  
30 employees entering the service of a participating local district  
32 after the date of establishment for the participating local  
34 district, except as otherwise provided by subsection 2; section  
18201, subsection 3; section 18252; section 18252-A; or section  
18256.

36 **Sec. 3. 5 MRSA 18252-A** is enacted to read:

38 **§18252-A. Membership in district without coverage under the**  
**federal Social Security Act, Section 218**

40 1. Membership. An employee of a participating local  
42 district that provides membership in accordance with section  
44 18201, subsection 5, may elect or decline membership in the  
retirement system, may withdraw from membership in the retirement  
system and may change that decision to elect, decline or  
withdraw, in accordance with the following.

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

2 B. An employee of the local district who is a member on the  
4 date on which the district votes to provide for membership  
6 in accordance with section 18201, subsection 5, may elect on  
8 and after that date to withdraw from the retirement system.  
10 An employee who withdraws may withdraw, at the employee's  
12 discretion, accumulated contributions in accordance with the  
14 procedures in section 18306.

16 C. At any time during the first 24 months following the  
18 employee's date of hire or rehire, an employee electing or  
20 declining membership under paragraph A may change that  
22 decision, but the employee may do so only once in the  
24 24-month period. Regardless of whether the 24-month period  
26 has expired, the employee may not change that decision after  
28 the date on which the participating local district enters  
30 the consolidated retirement plan.

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

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

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

72 **2. Elective membership not available under consolidated**  
74 **plan.** A participating local district that joins the consolidated  
76 retirement plan established under chapter 427 may not begin or  
78 continue to provide for membership under section 18201,  
80 subsection 5 after the date on which participation of that  
82 district in the consolidated retirement plan, as provided in  
84 section 18804, subsection 4, begins. An employee's decision  
86 under this section made before this date, if irrevocable before  
88 that date, remains irrevocable and, if not yet irrevocable,  
90 becomes irrevocable on that date.

2 3. District responsible for membership determinations. The  
3 participating local district is responsible for providing  
4 procedures by which employees elect or decline membership,  
5 withdraw from membership and change their decisions; for  
6 informing the retirement system as to employee decisions in  
7 accordance with procedures established by the executive director;  
8 and for making all administrative decisions, including the final  
9 administrative decision in any dispute related to an employee's  
10 decision under subsection 1, paragraph A, B, C or D and any  
11 related membership issue. Neither the retirement system nor the  
12 system's board of trustees has responsibility or jurisdiction to  
13 make the final administrative decision regarding these matters.  
14 The retirement system is obliged only to ensure that its records  
15 accurately reflect the information provided by the district, the  
16 district's decision as to any of these matters and the legally  
17 cognizable outcome of any dispute related to any of these matters.

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

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

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31  
32 **STATEMENT OF FACT**

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34 This bill allows participating local districts who do not  
35 have social security coverage for their employees to make  
36 participation in the Maine State Retirement System elective. The  
37 election becomes irrevocable 2 years from the date of election or  
38 when the district enters the consolidated retirement plan,  
39 whichever comes first. If an employee does change the election,  
40 the employee is not entitled to purchase service for time during  
41 which the employee was not a member. Once the district joins the  
42 consolidated retirement plan, elective membership will no longer  
be available.