

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 979

H.P. 715

House of Representatives, February 11, 1997

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### An Act to Allow Options within the Legislative Retirement System.

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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 UNDERWOOD of Oxford.  
Cosponsored by Senator MILLS of Somerset and  
Representatives: JOY of Crystal, KASPRZAK of Newport, LANE of Enfield, MACK of  
Standish, MERES of Norridgewock, WATERHOUSE of Bridgton, WINSOR of Norway,  
Senator: HALL of Piscataquis.

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

2           **Sec. 1. 3 MRSA §702**, as enacted by PL 1985, c. 507, §1, is  
4 amended to read:

6           **§702. Name; purpose**

8           There is established the Maine Legislative Retirement  
10 System, which ~~shall--have~~ has the powers and privileges of a  
corporation.

12           The purpose of the Maine Legislative Retirement System is to  
14 provide retirement allowances and other benefits under this  
chapter for Legislators who are members of the Maine Legislative  
Retirement System, as provided in section 862, subsection 1.

16           **Sec. 2. 3 MRSA §755, sub-§1**, as enacted by PL 1985, c. 507,  
18 §1, is amended to read:

20           1. **Findings.** The Legislature finds that the State owes a  
22 great debt to its retired Legislators for their years of faithful  
and productive service. Part of that debt is repaid by the  
24 benefits provided to Legislators through the Maine Legislative  
Retirement System. The Legislature further finds that continued  
26 accrual of benefits after December 1, 1998 is an unnecessary  
expense and is inconsistent with legislative term limits and the  
concept of a citizen Legislature. Accrual of benefits after  
28 December 1, 1998 is appropriate only for Legislators who are  
vested in the Maine Legislative Retirement System on December 1,  
30 1998.

32           **Sec. 3. 3 MRSA §801, sub-§1**, as amended by PL 1989, c. 133,  
34 §7, is further amended to read:

36           1. **Membership mandatory.** Every Legislator serving in the  
Legislature on or after December 3, 1986, ~~shall-be~~ is a member of  
the Maine Legislative Retirement System, except that any  
38 Legislator who is a member of the Maine State Retirement System  
on December 2, 1986, may continue to be a member of that system  
40 instead of becoming a member of the Maine Legislative Retirement  
System, and any Legislator who is a public school teacher or an  
42 employee of the ~~Vocational-Technical--Institute~~ Maine Technical  
College System on leave of absence ~~shall-continue~~ continues to be  
44 a member of the Maine State Retirement System and to have  
contributions deducted from the member's legislative salary as  
46 provided by Title 5, section 17701. A Legislator who is the  
recipient of a retirement allowance from the Maine State  
48 Retirement System ~~shall-become~~ becomes a member of the Maine  
Legislative Retirement System, but ~~no~~ creditable service granted  
50 under the Maine State Retirement System ~~shall~~ may not be

2 transferred to the Maine Legislative Retirement System. A member  
3 shall ~~cease~~ ceases to be a member when the member withdraws the  
4 member's contributions, becomes a beneficiary as a result of the  
5 member's own retirement or dies. Notwithstanding this subsection  
6 and any other provision of law, a Legislator may not become or  
7 remain a member of the Maine Legislative Retirement System or,  
8 except as provided in section 862, subsection 3, earn creditable  
9 service under the Maine State Retirement System while serving in  
10 the Legislature after December 1, 1998 unless that Legislator is  
11 a member of the Maine Legislative Retirement System on December  
12 1, 1998, as provided in section 862, subsection 1.

13       **Sec. 4. 3 MRSA §802, sub-§3,** as enacted by PL 1985, c. 507,  
14 §1, is amended to read:

15       **3. Disability retirement.** The period following the  
16 termination of service and prior to November 30, 1998 for which a  
17 beneficiary receives disability retirement allowance payments  
18 under section 853 ~~shall be~~ is allowed as membership service. The  
19 period following the termination of service and after December 1,  
20 1998 for which a beneficiary receives disability retirement  
21 allowance payments under section 853 is allowed as membership  
22 service only if the beneficiary is a member of the Maine  
23 Legislative Retirement System, as provided in section 862,  
24 subsection 1.

25       **Sec. 5. 3 MRSA §805,** as amended by PL 1993, c. 387, Pt. A,  
26 §1, is further amended to read:

27       **§805. Return of accumulated contributions**

28       **1. Refund of contributions.** Following termination of  
29 service, except by death or retirement under this chapter or  
30 after December 1, 1998 if a Legislator's membership is terminated  
31 on that date under section 801, subsection 1, a member, ~~upon~~  
32 application ~~to the Maine Legislative Retirement System,~~ shall  
33 must be paid the amount of his member's accumulated contributions  
34 to the system, ~~if any~~ upon application to the Maine Legislative  
35 Retirement System.

36       **A.** If the member has less than 10 years of creditable  
37 service, interest shall may not be paid on the accumulated  
38 contribution for any period after the 5th anniversary of  
39 termination of service or termination of membership.

40       **B.** Payment For Legislators or former Legislators seeking a  
41 refund of accumulated contributions, payment must be made  
42 upon application and upon termination of service and in not  
43 less than 22 days and not more than 60 days after receipt of  
44 the application and or receipt of the last payroll upon

2 which ~~the name of the member appears~~ contributions to the  
Maine Legislative Retirement System were taken, whichever  
4 occurs later.

6 **2. Applicability.** This section shall ~~does~~ not apply to  
contributions paid by the State. This section does not require a  
8 Legislator or former Legislator to apply for a refund of  
accumulated contributions.

10 **Sec. 6. 3 MRSA c. 30** is enacted to read:

12 **CHAPTER 30**

14 **LEGISLATIVE RETIREMENT OPTIONS**

16 **§861. Legislative retirement plans**

18 The Board of Trustees of the Maine State Retirement System  
shall administer the defined contribution plan and the deferred  
20 compensation plan for Legislators as provided in this chapter.

22 **§862. Mandatory participation**

24 Except as otherwise provided in this section, every  
Legislator holding office after December 1, 1998 must, while in  
26 office, participate in a defined contribution plan under the  
United States Internal Revenue Code, Section 401(a), referred to  
28 in this chapter as a "401(a) plan," or a deferred compensation  
plan under the United States Internal Revenue Code, Section 457,  
30 referred to in this chapter as a "457 plan," or both.

32 **1. Participation in Maine Legislative Retirement System.** A  
Legislator who, on December 1, 1998, is a member of the Maine  
34 Legislative Retirement System under chapter 29 is not required to  
participate in the defined contribution or deferred compensation  
36 plans under this chapter and may continue to participate in the  
Maine Legislative Retirement System if that Legislator:

38 A. Has 10 years of creditable service in the Maine  
40 Legislative Retirement System on December 1, 1998;

42 B. Is at least 60 years of age, is serving in the  
Legislature on December 1, 1998 and had at least 10 years of  
44 creditable service on July 1, 1993; or

46 C. Is at least 62 years of age, is serving in the  
Legislature on December 3, 1996 and had fewer than 10 years  
48 of creditable service on July 1, 1993.

2           2. Teachers and technical college employees. A Legislator  
3 who is a public school teacher or an employee of the Maine  
4 Technical College System on leave of absence continues to be a  
5 member of the Maine State Retirement System and to have  
6 contributions deducted from the member's legislative salary as  
provided by Title 5, section 17701-A.

8           3. Certain former state employees and legislative members  
9 of Maine State Retirement System. A Legislator who was a member  
10 of the Maine State Retirement System on December 2, 1986 and who  
11 remains a member on December 1, 1998 may continue to be a member  
12 of the Maine State Retirement System.

14           4. Voluntary participation. Subsections 1 to 3 do not  
15 prohibit a Legislator who is not required to participate in  
16 either the 401(a) plan or the 457 plan from voluntarily  
17 participating in either one or both.

18           5. Waiver. A Legislator may petition that Legislator's  
19 presiding officer for a waiver from the participation provisions  
20 of this section if the Legislator can demonstrate that  
21 participation in either the 401(a) plan or the 457 plan will  
22 create or exacerbate that Legislator's federal income tax  
23 liability due to the ownership of another retirement plan. The  
24 Office of the Executive Director of the Legislative Council shall  
25 provide assistance as requested by the Legislator or presiding  
26 officer. The presiding officer shall respond to the Legislator's  
27 petition within 30 days and shall provide copies of the decision  
28 to the Executive Director of the Legislative Council and the  
29 Executive Director of the Maine State Retirement System. Unless  
30 a waiver is granted under this subsection or under section 801,  
31 subsection 1-A, a Legislator must participate in the Maine  
32 Legislative Retirement System under chapter 29 or the defined  
33 contribution plan or the deferred compensation plan under this  
34 chapter.

36           **§863. Contributions**

38           A Legislator may participate in the 401(a) plan or the 457  
39 plan, or both, by making contributions as provided in this  
40 section. A Legislator participating in the 401(a) plan must  
41 contribute to the plan at a rate of 7.5% of legislative  
42 compensation annually. A Legislator participating in the 457  
43 plan only must contribute at least 7.5% of legislative  
44 compensation annually. Other amounts may be contributed to the  
45 401(a) or 457 plans as provided by federal law.

48           **§864. Disability retirement**

2 A Legislator who becomes disabled while participating in the  
3 401(a) plan or the 457 plan, or both, may receive a disability  
4 retirement allowance on the same basis as provided for members of  
5 the Maine State Retirement System by Title 5, chapter 423,  
6 subchapter V, Article 3-A.

7  
8 **§865. Exercising retirement options**

9  
10 Any options provided under this chapter must be exercised by  
11 the Legislator within 10 days of being sworn into office. An  
12 option once exercised may not be changed during the legislative  
13 biennium. For Legislators not participating in the Legislative  
14 Retirement System under chapter 29, failure to select either the  
15 401 (a) plan or the 457 plan or to obtain a waiver under section  
16 862, subsection 5 is considered to be selection of the 457 plan.

17  
18 **§866. Reports from the Executive Director of the Legislative**  
19 **Council**

20 The Executive Director of the Legislative Council shall  
21 submit reports on the employment, compensation and participation  
22 of Legislators in legislative retirement plans to the Board of  
23 Trustees of the Maine State Retirement System as required by the  
24 board. The Maine State Retirement System shall work with the  
25 Executive Director of the Legislative Council to provide  
26 information to Legislators regarding the options and impacts of  
27 participation in the legislative retirement plans provided in  
28 this chapter.

29  
30 **Sec. 7. Repeal.** The Maine Legislative Retirement System shall  
31 submit legislation to repeal the Maine Revised Statutes, Title 3,  
32 chapter 29 as soon as practicable after all liabilities of the  
33 system have been discharged.

34  
35 **Sec. 8. Savings used to pay off unfunded liability.** As determined  
36 by the Maine State Retirement System's actuary and approved by  
37 the Board of Trustees of the Maine State Retirement System, any  
38 surplus assets of the Maine Legislative Retirement System  
39 resulting from implementation of this Act must be transferred to  
40 the Maine State Retirement System and applied toward the payment  
41 of the unfunded liability of the Maine State Retirement System  
42 that is attributable to state employees and teachers.

43  
44  
45 **SUMMARY**

46  
47 This bill limits continued membership in the Maine  
48 Legislative Retirement System after December 1, 1998 to  
Legislators who are vested as of that date. Former Legislators

2 or their beneficiaries who are currently receiving a retirement  
allowance or Legislators who are receiving a disability  
4 retirement allowance will not have their benefits affected by  
this bill. Former and current Legislators who are vested and,  
6 therefore, are eligible to receive a retirement benefit at some  
point in the future will not have their accrued benefits affected  
and can continue to accrue service credit for future legislative  
8 service.

10 The Board of Trustees of the Maine Legislative Retirement  
System will continue to oversee the administration of the Maine  
12 Legislative Retirement System. Once all of the liabilities of  
the system have been discharged, the system is required to submit  
14 legislation to repeal the Maine Revised Statutes, Title 3,  
chapter 29.

16 After December 1, 1998, current Legislators who do not  
18 remain members of the Maine Legislative Retirement System and  
future Legislators must join either a 401(a) deferred  
20 compensation plan or a 457 defined contribution plan or both.  
The plans are administrated by the Maine State Retirement  
22 System. Any gains realized by the Maine State Retirement System  
as a result of this bill must be used to reduce the unfunded  
24 liability of the Maine State Retirement System attributable to  
state employees and teachers.

26 Legislators must contribute at least 7.5% of their  
28 compensation to one of the plans. Additional contributions above  
that level are subject to federal law. The State will not  
30 contribute to the plans on behalf of Legislators.