

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1497

S.P. 489

In Senate, March 12, 1997

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### **An Act to Amend the Benefits Received by Legislators.**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.  
Cosponsored by Representative BUCK of Yarmouth.

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

PART A

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

§702. Name; purpose

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

The purpose of the Maine Legislative Retirement System is to 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.

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

1. **Findings.** The Legislature finds that the State owes a great debt to its retired Legislators for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to Legislators through the Maine Legislative Retirement System. The Legislature further finds that continued 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 December 1, 1998 is appropriate only for Legislators who are vested in the Maine Legislative Retirement System on December 1, 1998.

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

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 Legislator who is a member of the Maine State Retirement System on December 2, 1986, may continue to be a member of that system instead of becoming a member of the Maine Legislative Retirement System, and any Legislator who is a public school teacher or an employee of the ~~Vocational-Technical-Institute~~ Maine Technical College System on leave of absence ~~shall continue~~ continues to be a member of the Maine State Retirement System and to have contributions deducted from the member's legislative salary as provided by Title 5, section 17701. A Legislator who is the recipient of a retirement allowance from the Maine State Retirement System ~~shall become~~ becomes a member of the Maine

2 Legislative Retirement System, but ~~no~~ creditable service granted  
3 under the Maine State Retirement System ~~shall~~ may not be  
4 transferred to the Maine Legislative Retirement System. A member  
5 ~~shall cease~~ ceases to be a member when the member withdraws the  
6 member's contributions, becomes a beneficiary as a result of the  
7 member's own retirement or dies. Notwithstanding this subsection  
8 and any other provision of law, a Legislator may not become or  
9 remain a member of the Maine Legislative Retirement System or,  
10 except as provided in section 862, subsection 3, earn creditable  
11 service under the Maine State Retirement System while serving in  
12 the Legislature after December 1, 1998 unless that Legislator is  
13 a member of the Maine Legislative Retirement System on December  
14 1, 1998, as provided in section 862, subsection 1.

15 **Sec. A-4. 3 MRSA §802, sub-§3,** as enacted by PL 1985, c. 507,  
16 §1, is amended to read:

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

27 **Sec. A-5. 3 MRSA §805,** as amended by PL 1993, c. 387, Pt. A,  
28 §1, is further amended to read:

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

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

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

42 **B.** Payment For Legislators or former Legislators seeking a  
43 refund of accumulated contributions, payment must be made  
44 upon application and upon termination of service and in not

2 less than 22 days and not more than 60 days after receipt of  
the application ~~and or~~ receipt of the last payroll upon  
4 which ~~the name of the member appears~~ contributions to the  
Maine Legislative Retirement System were taken, whichever  
6 occurs later.

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

12 **Sec. A-6. 3 MRSA c. 30** is enacted to read:

14 **CHAPTER 30**

16 **LEGISLATIVE RETIREMENT OPTIONS**

18 **§861. Legislative retirement plans**

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

24 **§862. Participation**

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

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

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

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

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

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

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

18 4. Social Security participation. A Legislator who elects  
19 coverage under the United States Social Security Act need not  
20 participate in a 401(a) or 457 plan.

22 5. Voluntary participation. Subsections 1 to 4 do not  
23 prohibit a Legislator who is not required to participate in  
24 either the 401(a) plan or the 457 plan from voluntarily  
25 participating in either one or both, except that the Legislature  
26 may not make contributions to any plan on behalf of Legislators  
27 who voluntarily participate in the plan.

#### 28 **§863. Contributions**

30  
31 1. Legislator contributions. A Legislator may participate  
32 in the 401(a) plan or the 457 plan, or both, by making  
33 contributions as provided in this section. A Legislator  
34 participating in the 401(a) plan must contribute to the plan at a  
35 rate of at least 7.5% of legislative compensation annually. A  
36 Legislator participating in the 457 plan only must contribute at  
37 least 7.5% of legislative compensation annually. Other amounts  
38 may be contributed to the 401(a) or 457 plans as provided by  
39 federal law.

40  
41 2. Employer contributions. The Legislature shall  
42 contribute to the retirement plan option or options elected by  
43 the Legislator at the same rate as the Legislator contributes up  
44 to a total contribution rate that may not exceed the contribution  
45 rate then assessed to employers under the United States Social  
46 Security Act.

#### 48 **§864. Disability retirement**

50 A Legislator who becomes disabled while participating in the  
51 401(a) plan or the 457 plan, or both, may receive a disability

2 retirement allowance on the same basis as provided for members of  
3 the Maine State Retirement System by Title 5, chapter 423,  
4 subchapter V, article 3-A.

6 **§865. Exercising retirement options**

8 Any options provided under this chapter must be exercised by  
9 the Legislator within 10 days of being sworn into office. An  
10 option once exercised may not be changed during the legislative  
11 biennium. For Legislators not participating in the Maine  
12 Legislative Retirement System under chapter 29, failure to select  
13 either the 401(a) plan or the 457 plan is considered to be  
14 selection of coverage under the United States Social Security Act.

16 **§866. Reports from Executive Director of Legislative Council**

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

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

32 **PART B**

34 **Sec. B-1. 5 MRSA §285, sub-§7,** as amended by PL 1995, c. 368,  
35 Pt. G, §2, is further amended by amending the first paragraph to  
36 read:

38 **7. Payment by State.** Except as otherwise provided in this  
39 subsection, the State, through the commission, shall pay 100% of  
40 only the employee's share of this health plan, except for  
41 Legislators, for whom the State shall pay 50% 80% of the  
42 Legislator health plan premium and 40% of the health plan premium  
43 for dependent coverage. For any person appointed to a position  
44 after November 1, 1981, who is employed less than full time, the  
45 State shall pay a share of the employee's share reduced pro rata  
46 to reflect the reduced number of work hours.  
47  
48

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## SUMMARY

4 Part A eliminates the present legislative retirement system  
6 for Legislators not vested on December 1, 1998. After that date,  
8 current non-vested and future newly elected Legislators may  
select to join either a 401(a) defined contribution plan, a 457  
deferred contribution plan, both plans or Social Security.

10 Legislators participating in the 401(a) or 457 plans must  
12 contribute at least 7.5% of their compensation to one of the  
14 plans. Additional contributions above that level are possible  
subject to federal law. The State will contribute a like amount  
16 on behalf of each Legislator up to the then-assessed employer  
contribution rate under Social Security.

18 Former Legislators or their beneficiaries who are currently  
20 receiving a retirement allowance or Legislators who are receiving  
22 a disability retirement allowance will not have their benefits  
24 affected by this bill. Current Legislators who are vested and,  
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 for future legislative service.

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

32 Part B of this bill requires Legislators to pay 20% of their  
34 health insurance and 60% of their dependents' health insurance  
premiums.