

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1997

Legislative Document

No. 1954

S.P. 706

In Senate, December 29, 1997

**An Act to Restore Certain Provisions Related to Earnable Compensation
for State Employee and Teacher Members of the Maine State Retirement
System.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 29, 1997. Referred to the Committee on Labor and ordered printed pursuant to Joint Rule 308.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TREAT of Kennebec.
Cosponsored by Representative HATCH of Skowhegan and
Senator CATHCART of Penobscot, Representative: COLWELL of Gardiner.

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶A, as amended by PL 1989, c. 800, is further amended to read:

A. "Earnable compensation" includes:

- (1) Workers' compensation benefits;
- (2) Maintenance, if any;
- (3) Any money paid by an employer to a 3rd party under a tax sheltered annuity contract or a deferred compensation plan for the future benefit of an employee provided that the money is not derived from amounts excluded from earnable compensation by paragraph B B-1; and
- (4) Pick-up contributions.

Sec. 2. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1995, c. 462, Pt. A, §13, is repealed.

Sec. 3. 5 MRSA §17001, sub-§13, ¶B-1 is enacted to read:

B-1. "Earnable compensation" does not include:

- (1) Payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both;
- (2) Any other payment that is not compensation for actual services rendered or is not paid at the time the actual services are rendered; or
- (3) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

Sec. 4. 5 MRSA §17001, sub-§13, ¶C, as repealed and replaced by PL 1995, c. 274, §1, is repealed and the following enacted in its place:

C. Notwithstanding any other provision of this subsection, for the purpose of determining average final compensation, that portion of any salary or wage increase received during the 3-year period used in the calculation of average final compensation that exceeds the prior year's earnable compensation by more than 15% may be excluded from earnable compensation. The portion of an increase in salary or wages that exceeds 15% may be included in earnable compensation

2 when the executive director specifically determines that the
4 increase was not granted to enhance the member's retirement
6 benefit.

8 The executive director's decision may be appealed in
10 accordance with section 17451.

12 The following items may not be considered in calculating
14 salary or wage increases for the purposes of this paragraph.

16 (1) Collectively bargained salary or wage increases
18 pursuant to Title 26, chapter 9-A, 9-B or 12;

20 (2) Salary or wage increases when similar increases
22 are given at the same time to the majority of persons
24 holding a similar position;

26 (3) Job promotion;

28 (4) Reclassification of position; or

30 (5) Reallocation of position.

32 **Sec. 5. 5 MRSA §17001, sub-§13, ¶E,** as enacted by PL 1991, c.
34 619, §2 and affected by §18, is amended to read:

36 E. "Earnable compensation" of a part-time, seasonal or
38 temporary employee is the sum of amounts computed under
40 paragraphs A, B B-1, C and D adjusted to reflect the wages
42 or salary that the member would have been paid if the member
44 had been employed, at the member's rate of pay, for the
46 number of days or hours that a permanent full-time employee
48 of the same employer would have been employed.

Sec. 6. 5 MRSA §17154, sub-§11, as amended by PL 1993, c. 580
§2 and affected by §3, is repealed.

Sec. 7. 20-A MRSA §15603, sub-§26-A, ¶D, as enacted by PL
1993, c. 410, Pt. F, §15, is amended to read:

D. Nonsubsidizable costs are not considered in the
calculation of the total allocation. "Nonsubsidizable
costs" includes the following:

(1) Community service costs;

(2) Major capital costs;

2 (3) Expenditures from all federal revenue sources,
except for amounts received under the United States
Code, Public Law 81-874;

4 (4) One half of salary and benefit costs for
6 superintendents, assistant superintendents and
associate superintendents;

8 (5) Transportation costs not associated with
10 transporting students from home to school and back home
each day; and

12 (6) Costs payable to the Maine State Retirement System
14 under Title 5, section 17154, subsections subsection 10
and-11.

18 SUMMARY

20 Public Law 1991, chapter 591 and Public Law 1993, chapter
410 amended the statutes related to certain earnable compensation
22 provisions for state employee and teacher members of the Maine
State Retirement System. These laws made changes to the
24 definition of "earnable compensation," modified its calculation
method by reducing the earnings "cap" and eliminated certain
26 salary and wage considerations previously exempted from the cap
calculation.

28 This bill restores the cap, exclusions and the definition of
30 "earnable compensation" that were in place prior to the benefit
changes that became effective beginning in fiscal year 1991-92.
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