MAINE STATE LEGISLATURE

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2	DATE: March 25, 1998	(7:1: 2 2 611)
4	DAIL: MACA 25/1115	(Filing No. S- 6//)
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10	Reproduced and distributed under the of the Senate.	direction of the Secretary
12	STATE OF MA	INF
14	SENATE 118TH LEGISLA	
16	SECOND REGULAR	
18	COMMITTEE AMENDMENT " A " to S.P.	710 I D 1062 Bill "An
20	Act to Apply ERISA Standards to Pensic State Employees to Clarify that The	on Benefits for Teachers and
22	Accrued"	sy are wonitriestable once
24	Amend the bill by striking out the following:	the title and substituting
26	'An Act to Provide Contractual Protec	tion to Pension Remefits of
28	Members of the Retirement System and Nonforfeitable Once Accrued'	
30	Further amend the bill by striki	ng out everything after the
3.2	enacting clause and before the summary the following:	
34	Sec. 1. 4 MRSA §1351-A is enacted	to read:
36	§1351-A. Amendments not to reduce val	
38	If a member has met the m	
40	requirements for a service retirement no amendment to this chapter may cause	benefit under section 1351,
42	of the accrued service retirement beneath the provisions of this chapt	efits earned by that member
44	creditable service, earnable compensate and pick-up contributions.	
46		which making well-re the
48	1. Definitions. As used in context otherwise indicates, the	

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Via and Sales	
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2 .	A. "Accrued service retirement benefits" means those
	benefits that a member would be entitled to receive upon
4	retirement based on service performed before the effective
	date of an amendment of this chapter assuming a continuation
6	of the laws in effect at the time the service was performed.
8	B. "Value" means the present dollar value of the member's
	service retirement benefits as determined by the Maine
10	Judicial Retirement System using commonly accepted actuarial
	assumptions and procedures.
12	
	2. Benefit value protected. Specific provisions of this
14	chapter establishing service retirement benefits may be amended
	by law so long as the value of accrued service retirement
16	benefits earned by a member is not reduced.
18	3. Contractual obligation of the State. This section is a
	solemn contractual commitment of the State protected under the
20	"obligation of contracts" clauses of the Constitution of Maine,
	Article I, Section 11 and Article I, Section 10 of the United
22	States Constitution.
24	Sec. 2. 5 MRSA §17801, as amended by PL 1987, c. 739, §§25
	and 48, is repealed and the following enacted in its place:
26	
	§17801. Amendments not to reduce value of benefits
26 28	§17801. Amendments not to reduce value of benefits
28	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service
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28	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the
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28 30 32	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the value of the accrued service retirement benefits earned by that member under the provisions of this Part based on the member's
28	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the value of the accrued service retirement benefits earned by that member under the provisions of this Part based on the member's creditable service, earnable compensation, employee contributions
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28 30 32 34 36	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the value of the accrued service retirement benefits earned by that member under the provisions of this Part based on the member's creditable service, earnable compensation, employee contributions and pick-up contributions. 1. Definitions. As used in this section, unless the
28 30 32 34	If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the value of the accrued service retirement benefits earned by that member under the provisions of this Part based on the member's creditable service, earnable compensation, employee contributions and pick-up contributions. 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the
28 30 32 34 36	§17801. Amendments not to reduce value of benefits If a member has met the minimum creditable service requirements for a service retirement benefit under section 17851, no amendment to this Part may cause any reduction in the value of the accrued service retirement benefits earned by that member under the provisions of this Part based on the member's creditable service, earnable compensation, employee contributions and pick-up contributions. 1. Definitions. As used in this section, unless the
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2. Benefit value protected. Specific provisions of this Part establishing service retirement benefits may be amended by law so long as the value of accrued service retirement benefits earned by a member is not reduced.

3. Contractual obligation of the State. This section is a solemn contractual commitment of the State protected under the "obligation of contracts" clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill will prevent the State from reducing the accrued retirement benefits of vested members of the Maine State Retirement System. Future retirement benefit reductions will only be allowed for nonvested members of the Maine State Retirement System and only be allowed prospectively for vested members.'

SUMMARY

This amendment replaces and clarifies the intent of the bill. The amendment provides that the retirement benefits of state employees, teachers and judges under the Maine State Retirement System represent a solemn contractual commitment of the State the value of which may not be reduced once those benefits are earned. This amendment is intended to specifically supplant, with respect to the accrued retirement benefits of the named groups of retirement system members, the holding of the United States Court of Appeals for the First Circuit in Parker v. Wakelin et al., (CA 1, No. 96-2225, 8/11/97). In that case, the court held that Maine public pension law creates no enforceable private contractual right against the modification of teacher members' retirement benefits until those benefits are actually receivable.

This amendment does not limit the ability of the Legislature in the future to reduce public pension retirement benefits prospectively or to remove or to limit the contractual protection provided by this amendment with respect to future benefits. Under this amendment, however, public employee retirement benefits, once earned, may not be reduced because the accrued value of those benefits is protected under the contract clauses of the Constitution of Maine and the United States Constitution.

The amendment also adds a fiscal note to the bill.

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