

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2146

H.P. 1524

House of Representatives, January 20, 1998

**An Act to Amend the Laws Concerning Participating Local Districts in
the Maine State Retirement System.**

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

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.

Cosponsored by Representatives: AHEARNE of Madawaska, PENDLETON of Scarborough,
RINES of Wiscasset, ROWE of Portland, SAXL of Portland, STANLEY of Medway,
Senator: TREAT of Kennebec.

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

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Sec. 1. 5 MRSA §18201, sub-§3-A is enacted to read:

3-A. Compliance with federal law. The local district is responsible for compliance with 26 Code of Federal Regulations, Part 31, with Section 401 of the United States Internal Revenue Code and with other relevant federal law and rules with respect to its employees, including employees to whom section 18252-A applies.

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

1. Compulsory membership. Membership is compulsory for all employees entering the service of a participating local district after the date of establishment for the participating local district, except as otherwise provided by subsection 2; section 18201, subsection 3; section 18252; ~~or section 18252-A~~; section 18256; or section 18801, subsection 1, paragraph D.

Sec. 3. 5 MRSA §18252, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

An employee who is or would be covered by the United States Social Security Act as a result of his employment by a participating local district having a so-called "Social Security Section 218 agreement" may elect to join, not to join or to withdraw from the retirement system under the following conditions.

Sec. 4. 5 MRSA §§18252-A and 18252-B are enacted to read:

§18252-A. Membership in district without Social Security Section 218 agreement coverage and with plan provided by the employer under section 18252-B

1. Membership. An employee of a participating local district that does not have a so-called "Social Security Section 218 agreement" and that has a plan provided by the employer under section 18252-B may elect to be a member under the retirement system or to be covered under the plan provided by the employer in accordance with the following.

A. An employee hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B shall elect at the time of hiring or rehiring whether to be a member under the retirement system or to be covered under a plan provided by the employer under section 18252-B.

2 (1) If the employee elects to be a member under the
3 retirement system, the election is effective as of the
4 date of hire or rehire.

6 (a) An employee who elects to be a member of the
7 retirement system may later elect to be covered
8 under a plan provided by the employer under
9 section 18252-B. The employee who so elects shall
10 withdraw accumulated contributions in accordance
11 with applicable requirements of law and rule and
12 retirement system procedures.

14 (b) An employee who elects under division (a) to
15 be covered under a plan provided by the employer
16 under section 18252-B may later elect to again
17 become a member under the retirement system.

18 (c) An employee who elects under division (b) to
19 again become a member of the retirement system may
20 not pay contributions or pick-up contributions or
21 receive service credit for the period during which
22 the employee elected not to be a member under the
23 retirement system. The employee may, in
24 accordance with section 18304, repay contributions
25 refunded under division (a).

26 (d) An employee who, having elected to again
27 become a member under the retirement system under
28 division (c), later elects again not to be a
29 member may not thereafter become a member under
30 the retirement system while employed by the same
31 participating local district.

34 (2) An employee who elects to be covered under a plan
35 provided by the employer under section 18252-B may
36 later elect to become a member under the retirement
37 system.

38 (a) Membership service credit for an employee
39 joining the retirement system under this
40 subparagraph begins as of the effective date of
41 first contributions or pick-up contributions to
42 the retirement system following the employee's
43 election under this subparagraph.

46 (b) An employee who joins the retirement system
47 under this subparagraph may not pay contributions
48 or have pick-up contributions made on or receive
49 any service credit for the period during which the

2 employee elected not to be a member of the
retirement system.

4 (c) An employee who, having elected to become a
member under the retirement system under this
6 subparagraph, later elects again not to be a
member shall withdraw accumulated contributions in
8 accordance with applicable requirements of law and
rule and retirement system procedures and may not
10 thereafter become a member under the retirement
system while employed by the same participating
12 local district.

14 B. An employee of the participating local district who is a
member on the date on which the employer provides a plan
16 under section 18252-B may elect whether to remain a member
under the retirement system or elect to become covered under
18 a plan provided by the employer under section 18252-B.

20 (1) If the employee elects not to remain a member, the
election is effective as of the first day of the month
22 in which no contributions or pick-up contributions are
made to the retirement system by the employee. An
24 employee who elects not to remain a member shall
withdraw accumulated contributions in accordance with
26 applicable requirements of law and rule and retirement
system procedures.

28 (2) An employee who elects not to remain a member
30 under the retirement system may later elect to again
become a member.

32 (a) Membership service credit for an employee who
34 elects to again become a member under the
retirement system under this subparagraph begins
36 as of the effective date of the first
contributions or pick-up contributions to the
38 retirement system following the employee's
election under this subparagraph.

40 (b) An employee who rejoins the retirement system
42 under this subparagraph may not pay contributions
or pick-up contributions or receive service credit
44 for the period during which the employee elected
not to be a member under the retirement system.
46 The employee may, in accordance with section
18304, repay contributions refunded under
48 subparagraph (1).

2 (c) An employee who, having elected to again
4 become a member under the retirement system under
6 this subparagraph, later elects again not to be a
8 member shall withdraw accumulated contributions in
10 accordance with applicable requirements of law and
 rule and retirement system procedures and may not
 thereafter become a member under the retirement
 system while employed by the same participating
 local district.

12 C. At no time may an employee who elects not to be a member
14 under the retirement system under paragraph A or B pay
16 contributions or pick-up contributions or receive service
 credit for any time during which the employee elected not to
 be a member.

18 D. If the participating local district does not have a plan
20 provided under section 18252-B, the employees do not have
 the elections provided under paragraphs A and B.

22 2. District employer responsibilities. Responsibilities of
 the participating local district employer are as follows.

24 A. The participating local district employer is responsible
26 for ensuring that the plan provided by the employer under
 section 18252-B meets the requirements of that section.

28 B. The participating local district employer is responsible
30 for providing employees with information as to membership
32 under the retirement system and as to coverage under the
34 plan provided by the employer under section 18252-B to
 assist the employee in making election decisions. The
 retirement system shall provide the employer with
 information as to the retirement system.

36 C. The participating local district employer is responsible
38 for providing procedures by which employees make elections
40 under this section, for maintaining all records relevant to
42 the election process and each employee's elections, for
44 informing the retirement system as to employee elections in
46 accordance with procedures established by the executive
48 director and for making all administrative decisions,
50 including the final administrative decision, in any dispute
 related to an employee's elections or administrative
 decision, in any dispute related to an employee's elections
 or to any issue as to the plan provided by the employer
 under section 18252-B. Neither the retirement system nor
 the system's board of trustees has responsibility or
 jurisdiction to make the final administrative decision with
 respect to any of these matters. The retirement system is

2 responsible only to ensure that its records accurately
3 reflect the information provided by the employer, the
4 employer's decision as to any of these matters, and the
5 legally cognizable outcome of any dispute related to any of
6 these matters.

7 D. With respect to matters related to participation and
8 membership other than those specified in paragraph C, the
9 retirement system and the board retain responsibility and
10 authority according to applicable retirement system law and
11 rules as to the participating local districts and their
12 employees to whom this section applies, including the
13 authority to make final administrative decisions.

14 3. Exclusions. This section does not apply to employees of
15 participating local districts who are employed in part-time,
16 seasonal or temporary positions or to employees for whom
17 membership in the retirement system is optional under section
18 18201, subsection 3; section 18251, subsection 2; section 18252;
19 or section 18801, subsection 1, paragraph D or denied under
20 section 18256.

21 **§18252-B. Requirements for plan provided by district employer for**
22 **employees to whom section 18252-A applies**

23 The plan provided by the participating local district
24 employer for employees to whom section 18252-A applies must meet
25 the following requirements.

26 1. Internal Revenue Code. The plan must meet the
27 requirements of Section 401(a) or Section 457, or both, of the
28 United States Internal Revenue Code.

29 2. Employer contribution. The employer must contribute as
30 a percentage of compensation on behalf of each employee in each
31 pay period not less than the employer would be required to pay if
32 the employee were covered under the United States Social Security
33 Act, not including the Medicare portion of the payment.

34 3. Employee contribution. The employee must contribute as
35 a percentage of compensation in each pay period not less than the
36 employee would have been required to contribute had the employee
37 been a member under the retirement system under so-called
38 "Regular Plan A" of the consolidated plan for participating local
39 districts.

40 4. Education. The employer must provide for employees to
41 whom section 18252-A applies an education program that meets the
42 requirements of federal law for such programs for the plan that
43 the employer provides.

