

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1998

Legislative Document

No. 14

S.P. 17

Received by the Secretary, December 21, 1998

**An Act to Protect Pensions of Teachers and Public Employees in a
Fashion Consistent with Federal ERISA Standards.**

Received by the Secretary of the Senate on December 21, 1998. Referred to the Committee on Labor and ordered printed pursuant to Joint Rule 308.2

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.
Cosponsored by Representative JOY of Crystal and
Representatives: BUCK of Yarmouth, WATERHOUSE of Bridgton, WINSOR of Norway.

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

4 **Sec. 1. 5 MRSA §17801**, as amended by PL 1987, c. 739, §§25
and 48, is repealed and the following enacted in its place:

6 **§17801. Amendments not to reduce value of benefits**

8 If a member has met the minimum creditable service
10 requirements for a service retirement benefit under section
12 17851, no amendment to this Part may cause any reduction in the
14 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.

16 **1. Definitions.** As used in this section, unless the
18 context otherwise indicates, the following terms have the
following meanings.

20 **A. "Accrued service retirement benefits"** means those
22 benefits that a member would be entitled to receive upon
24 retirement based on service performed before the effective
date of an amendment of this Part assuming a continuation of
the laws in effect at the time the service was performed.

26 **B. "Value"** means the present dollar value of the member's
28 service retirement benefits as determined by the Maine State
Retirement System using commonly accepted actuarial
assumptions and procedures.

30 **2. Benefit value protected.** Specific provisions of this
32 Part establishing service retirement benefits may be amended by
34 law so long as the value of accrued service retirement benefits
earned by a member is not reduced.

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

42 **SUMMARY**

44 This bill provides that the retirement benefits of state
46 employees and teachers under the Maine State Retirement System
48 represent a solemn contractual commitment of the State, the value
of which may not be reduced once those benefits are earned. This
50 bill is intended to specifically supplant, with respect to the
accrued retirement benefits of the named groups of retirement

2 system members, the holding of the United States Court of Appeals
3 for the First Circuit in Parker v. Wakelin et al., (CA 1, No.
4 96-2225, 8/11/97). In that case, the court held that Maine
5 public pension law creates no enforceable private contractual
6 right against the modification of teacher members' retirement
benefits until those benefits are actually receivable.

8 This bill does not limit the ability of the Legislature in
9 the future to reduce public pension retirement benefits
10 prospectively or to remove or to limit the contractual protection
11 provided by this bill with respect to future benefits. Under
12 this bill, however, public employee retirement benefits, once
13 earned, may not be reduced because the accrued value of those
14 benefits is protected under the contract clauses of the
15 Constitution of Maine and the United States Constitution.
16