

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2124

H.P. 1484

House of Representatives, March 30, 1999

An Act to Change the State Retirement System from a Defined Benefit Plan to a Defined Contribution Plan.

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 MACK of Standish.
Cosponsored by Representatives: GOODWIN of Pembroke, MacDOUGALL of North Berwick, TREADWELL of Carmel.

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

2
4 **Sec. 1. 5 MRSA §17001, sub-§§28-B and 28-C** are enacted to read:

6 28-B. Plan 1. "Plan 1" means the retirement plan available
8 to a member under chapter 423 who is first employed before July
1, 2000 and who does not elect to become a qualified participant
in Plan 2.

10 28-C. Plan 2. "Plan 2" means the retirement investment
12 option or options qualifying under section 401(k) of the United
States Internal Revenue Service Code that is available to
qualified participants under chapter 423, subchapter VII.

14 **Sec. 2. 5 MRSA §17651**, as enacted by PL 1985, c. 801, §§5 and
16 7, is amended to read:

18 **§17651. Mandatory membership**

20 All employees hired before July 1, 2000 shall become members
of the retirement system as a condition of their employment.
22 Employees hired on or after July 1, 2000 must be members of Plan
2 as provided in subchapter VII.

24 **Sec. 3. 5 MRSA c. 423, sub-c. VII** is enacted to read:

26 SUBCHAPTER VII

28 PLAN 2 RETIREMENT BENEFITS FOR STATE
30 EMPLOYEES AND TEACHERS HIRED ON OR
32 AFTER JULY 1, 2000

34 **§18101. Definitions**

36 As used in this subchapter, unless the context otherwise
indicates, the following terms have the following meanings.

38 1. Accumulated balance. "Accumulated balance" means the
40 total balance in a qualified participant's, former qualified
participant's or refund beneficiary's individual account in Plan
2.

42 2. Compensation. "Compensation" means the remuneration
44 paid a participant on account of the participant's services
rendered to the participant's employer. "Compensation" includes
46 only wages, tips and other compensation as reported by the
employer on the participant's federal form W-2 wage and tax
48 statement.

2 3. Employer. "Employer" means this State or a school
administrative unit.

4 4. Former qualified participant. "Former qualified
participant" means an individual who was a qualified participant
whose employment upon which the participant's participation is
based is terminated for any reason.

8 5. Health benefit dependent. "Health benefit dependent"
means the qualified or former qualified participant's spouse, if
any, and an unmarried child who is considered a dependent of the
qualified or former qualified participant under section 152 of
the Internal Revenue Code, if any.

14 6. Qualified participant. "Qualified participant" means an
individual who is a participant of Plan 2 and:

18 A. Is first employed and entered upon the payroll of the
individual's employer on or after July 1, 2000 and who,
before July 1, 2000, would have been eligible to be a member
of Plan 1; or

22 B. Elects to terminate membership in Plan 1 and elects to
participate in Plan 2 in the manner prescribed in this
subchapter.

26 7. Refund beneficiary. "Refund beneficiary" means an
individual nominated by a qualified participant under section
18110.

30 **§18102. Investment of contributions; direction by participant;**
payment by employer

34 Each qualified participant, former qualified participant and
refund beneficiary is solely responsible for the selection and
management of an option or options for the investment of that
individual's employee and employer contributions and earnings.
The qualified participant, former qualified participant or refund
beneficiary shall notify the employer of the investment option or
options selected and of any changes. The employer shall deduct
from each qualified participant's paycheck the employer and
employee contributions provided in section 18108 and pay those
amounts to the investment option or options selected by the
qualified participant, former qualified participant or refund
beneficiary.

46 **§18103. Administrative expenses**

48 Any administrative expenses incurred by the employer under
Plan 2 must be paid by the qualified participants, former
50

2 qualified participants or refund beneficiaries in a manner
3 prescribed by the Commissioner of Administrative and Financial
4 Services.

6 **§18104. Other public sector retirement benefits plan**
7 **participation**

8 A qualified participant may not participate in any other
9 public sector retirement benefits plan for simultaneous service
10 rendered to the same public sector employer. This section does
11 not prohibit a qualified participant from participating in a
12 retirement plan established by this State or other public sector
13 employer under the Internal Revenue Code.

14 **§18105. Election to terminate participation in Plan 1 and to**
15 **participate in Plan 2**

16
17 **1. Exercise option.** The retirement system shall provide an
18 opportunity for each member who is a member on July 1, 2000 to
19 elect in writing to terminate membership in Plan 1 and elect to
20 become a qualified participant in Plan 2. An election made by a
21 member under this subsection is irrevocable. The retirement
22 system shall accept written elections under this subsection from
23 members during the period beginning on January 1, 2000 and ending
24 on July 1, 2002. A member who does not make a written election
25 or who does not file the election during the period specified in
26 this subsection continues to be a member of Plan 1. A member who
27 makes and files a written election under this subsection elects
28 to do all of the following:

29 A. Cease to be a member of Plan 1;

30 B. Become a qualified participant in Plan 2; and

31 C. Waive all rights to a retirement allowance or any other
32 benefit under this chapter. This section does not affect a
33 person's right to health benefits provided under section 285.

34
35 **2. Inactive members.** If an individual who is an inactive
36 member on July 1, 2000 or who is a former nonvested member on
37 July 1, 2000 is later reemployed and by virtue of that employment
38 is again eligible for membership in Plan 1, the individual shall
39 elect in writing to remain a member of Plan 1 or to terminate
40 membership in Plan 1 and become a qualified participant in Plan
41 2. An election made by an inactive member or a former nonvested
42 member under this subsection is irrevocable. The retirement
43 system shall accept written elections under this subsection from
44 a inactive member or a former nonvested member during the period
45 beginning on the date of the individual's reemployment and ending
46 2 years after the date of that reemployment. An inactive member

2 or former nonvested member who makes and files a written election
3 to remain a member of Plan 1 retains all rights and is subject to
4 all conditions as a member of Plan 1 under this chapter. An
5 inactive member or former nonvested member who does not make a
6 written election or who does not file the election during the
7 period specified in this subsection continues to be a member of
8 Plan 1. An inactive member or former nonvested member who makes
9 and files a written election to terminate membership in Plan 1
10 elects to do all of the following:

11 A. Cease to be a member of Plan 1 effective at 12:00
12 midnight on the last day of the payroll period that includes
13 the date of the election;

14 B. Become a qualified participant in Plan 2 effective at
15 12:01 a.m. on the first day of the payroll period
16 immediately following the date of the election; and

17 C. Waive all rights to a retirement allowance or any other
18 benefit under Plan 1 effective at 12:00 midnight on the last
19 day of the payroll period that includes the date of the
20 election. This subsection does not affect an individual's
21 right to health benefits provided under section 285.

22 3. Method of election. After consultation with the actuary
23 and the board, the Commissioner of Administrative and Financial
24 Services shall determine the method by which a member, inactive
25 member or former nonvested member shall make a written election
26 under this section. If the member, inactive member or former
27 nonvested member is married at the time of the election, the
28 election is not effective unless the election is signed by the
29 individual's spouse.

30 **§18106. Transfer of funds on termination of Plan 1**

31 For a member who elects to participate in Plan 2 under
32 section 18105, subsection 1 or an inactive member who elects to
33 participate in Plan 2 under section 18105, subsection 2, the
34 retirement system shall transfer to the investment option or
35 options selected under section 18102 an amount equal to the
36 present value of future benefits due that member based on
37 creditable service under Plan 1 as determined by the retirement
38 system actuary.

39 **§18107. Vesting**

40 A qualified participant is immediately vested in 100% of
41 both the employee and employer contributions made under Plan 2.

42 **§18108. Contributions**

1. Employee rate. A qualified participant shall contribute 6% of earnable compensation to Plan 2.

2. Employer rate. A qualified participant's employer shall contribute 6% of the participant's earnable compensation to Plan 2 on behalf of the participant.

§18109. Calculation of accrued cost savings for each fiscal year

After consulting the actuary, the Commissioner of Administrative and Financial Services shall calculate for each fiscal year any cost savings that have accrued to this State as a result of the implementation of this subchapter over the costs that would have been incurred by this State to fund this retirement system had this subchapter not been enacted. The total amount of such cost savings shall be submitted in the executive budget to the Legislature for use to reduce the unfunded liability of the retirement system attributable to state employees and teachers.

§18110. Refund beneficiary

A qualified participant or former qualified participant may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the Commissioner of Administrative and Financial Services. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's or former qualified participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's or former qualified participant's spouse. However, the Treasurer of State may waive this requirement if the spouse's signature can not be obtained because of extenuating circumstances.

Sec. 4. Effective date; implementation. This Act takes effect July 1, 2000, except that the Maine State Retirement System shall review the provisions of this Act and report in writing to the Joint Standing Committee on Labor no later than December 15, 1999. The report must identify any technical, legal, fiscal or policy issues associated with implementation of this Act. Following review of the report, the committee may report out legislation to address those issues.

SUMMARY

This bill establishes a defined contribution retirement plan for state employees and teachers hired on or after July 1, 2000. Active employees on July 1, 2000 have a choice of remaining in the current defined benefit retirement plan or joining the new

2 plan. Under the defined contribution plan, the employer matches
the employee's contribution of 6% of salary. The employee
4 exercises sole authority over selection and management of
investment options meeting Internal Revenue Code, Section 401(k)
requirements.