

# MAINE STATE LEGISLATURE

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L.D. 2614

DATE: 4-10-00

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION

18

COMMITTEE AMENDMENT "B" to H.P. 1878, L.D. 2614, Bill, "An Act to Establish Consistent Requirements in Maine State Retirement System Plans for Minimum Creditable Service for Eligibility to Receive Retirement Benefits"

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Amend the bill by striking out the title and substituting the following:

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'An Act to Convert the Legislative Retirement Plan From a Defined Benefit to a Defined Contribution Plan and to Establish Consistent Vesting Requirements for Other Maine State Retirement System Plans'

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Further amend the bill by inserting after the enacting clause and before section 1 the following:

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'Sec. 1. 3 MRSA §755, sub-§1, as enacted by PL 1985, c. 507, §1, is amended to read:

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38

1. Findings. The Legislature finds that the State owes a great debt to its retired Legislators for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to Legislators through the Maine Legislative Retirement System. The Legislature further finds that continued accrual of benefits under the defined benefit plan of the Maine Legislative Retirement System after December 6, 2000 is an unnecessary expense and is inconsistent with legislative term limits and the concept of a citizen Legislature. Accrual of benefits under the Maine Legislative Retirement System after December 6, 2000 is appropriate only for Legislators who are

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COMMITTEE AMENDMENT

2 already vested in the Maine Legislative Retirement System on that  
3 date.

4 **Sec. 2. 3 MRSA §801, sub-§1**, as amended by PL 1989, c. 133,  
5 §7, is further amended to read:

6 **1. Membership mandatory.** Every Until December 6, 2000,  
7 every Legislator serving in the Legislature on or after December  
8 3, 1986, ~~shall be~~ is a member of the Maine Legislative Retirement  
9 System, except that any Legislator who is a member of the Maine  
10 State Retirement System on December 2, 1986, may continue to be a  
11 member of that system instead of becoming a member of the Maine  
12 Legislative Retirement System, and any Legislator who is a public  
13 school teacher or an employee of the ~~Vocational-Technical~~  
14 Institute Maine Technical College System on leave of absence  
15 ~~shall continue~~ continues to be a member of the Maine State  
16 Retirement System and to have contributions deducted from the  
17 member's legislative salary as provided by Title 5, section  
18 17701. A Legislator who is the recipient of a retirement  
19 allowance from the Maine State Retirement System ~~shall become~~  
20 becomes a member of the Maine Legislative Retirement System, but  
21 ~~no~~ creditable service granted under the Maine State Retirement  
22 System ~~shall~~ may not be transferred to the Maine Legislative  
23 Retirement System. A member ~~shall cease~~ ceases to be a member  
24 when the member withdraws the member's contributions, becomes a  
25 beneficiary as a result of the member's own retirement or dies.  
26 After December 6, 2000, a Legislator may not become or remain a  
27 member of the Maine Legislative Retirement System or, except as  
28 provided in section 872, subsection 3, earn creditable service  
29 under the Maine State Retirement System while serving in the  
30 Legislature after December 6, 2000 unless that Legislator is a  
31 member of the Maine Legislative Retirement System on December 6,  
32 2000, as provided in section 872, subsection 1.

33 **Sec. 3. 3 MRSA §802, sub-§3**, as enacted by PL 1985, c. 507,  
34 §1, is amended to read:

35 **3. Disability retirement.** The period following the  
36 termination of service prior to December 6, 2000 for which a  
37 beneficiary receives disability retirement allowance payments  
38 under section 853 shall be is allowed as membership service. The  
39 period following the termination of service after December 6,  
40 2000 for which a beneficiary receives disability retirement  
41 allowance payments under section 853 is allowed as membership  
42 service only if the beneficiary is a member of the Maine  
43 Legislative Retirement System, as provided in section 872,  
44 subsection 1.

45 **Sec. 4. 3 MRSA §805**, as amended by PL 1997, c. 651, §1, is  
46 further amended to read:

2 **§805. Return of accumulated contributions**

4 1. Refund of contributions. ~~Following~~ Except as provided  
6 in section 874, following termination of service, except by death  
8 or, retirement under this chapter or after December 6, 2000  
10 termination of a Legislator's membership on that date under  
12 section 801, subsection 1, a member,--upon-application-to--the  
Maine--Legislative--Retirement--System,--shall must be paid the  
amount--of--his member's accumulated contributions to the system,  
if--any upon application to the Maine Legislative Retirement  
System.

14 B. Payment For Legislators or former Legislators seeking a  
16 refund of accumulated contributions, payment must be made  
18 upon-application-and-upon-termination-of-service-and in not  
20 less than 22 days and not more than 60 days after receipt of  
the application and or receipt of the last payroll upon  
which ~~the name of the member appears~~ contributions to the  
Maine Legislative Retirement System were taken, whichever  
occurs later.

22 2. Applicability. This section shall does not apply to  
24 contributions paid by the State. This section does not require a  
Legislator or former Legislator to apply for a refund of  
26 accumulated contributions.'

28 Further amend the bill in section 3 in subsection 2 in the  
30 2nd line (page 1, line 38 in L.D.) by striking out the  
32 following: "whether or not in service at retirement who" and  
inserting in its place the following: ', whether or not in  
service at retirement, who'

34 Further amend the bill in section 3 in subsection 2-A in the  
36 2nd and 3rd lines (page 2, lines 8 and 9 in L.D.) by striking out  
38 the following: "whether or not in service at retirement who" and  
inserting in its place the following: ', whether or not in  
service at retirement, who'

40 Further amend the bill by inserting after section 4 the  
42 following:

44 '**Sec. 5. 3 MRSA c. 30** is enacted to read:

46 **CHAPTER 30**

48 **DEFINED CONTRIBUTION RETIREMENT PLAN FOR LEGISLATORS**

50 **§871. Definitions**

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

1. **Employer.** "Employer" means the Legislative Council.

2. **Qualified participant.** "Qualified participant" means a Legislator or former Legislator who is a participant in the United States Internal Revenue Code, Section 401(a) plan and:

A. First holds office on or after December 6, 2000 and who, if holding office before that date, would have been eligible to be a member of the Maine Legislative Retirement System under chapter 29; or

B. Elects to terminate membership in the Maine Legislative Retirement System and to participate in the 401(a) plan in the manner prescribed in this chapter.

3. **Refund beneficiary.** "Refund beneficiary" means an individual nominated by a qualified participant under section 881.

**§872. Mandatory participation**

Except as otherwise provided in this section, every Legislator holding office after December 6, 2000 must, while in office, participate in a defined contribution plan under the United States Internal Revenue Code, Section 401(a), referred to in this chapter as the "401(a) plan."

1. **Participation in Maine Legislative Retirement System.** A Legislator who, on December 6, 2000, is a member of the Maine Legislative Retirement System under chapter 29 is not required to participate in the defined contribution plan under this chapter and may continue to participate in the Maine Legislative Retirement System if that Legislator:

A. Has 5 years of creditable service in the Maine Legislative Retirement System on December 6, 2000;

B. Is at least 60 years of age, is serving in the Legislature on December 6, 2000 and had at least 10 years of creditable service on July 1, 1993; or

C. Is at least 62 years of age, is serving in the Legislature on December 6, 2000 and had fewer than 10 years of creditable service on July 1, 1993.

2. **Teachers and technical college employees.** A Legislator who is a public school teacher or an employee of the Maine Technical College System on leave of absence continues to be a

2 member of the Maine State Retirement System and to have  
3 contributions deducted from the member's legislative salary as  
4 provided by Title 5, section 17701-A.

6 3. Certain former state employees and legislative members  
7 of Maine State Retirement System. A Legislator who was a member  
8 of the Maine State Retirement System on December 2, 1986 and who  
9 remains a member on December 6, 2000 may continue to be a member  
10 of the Maine State Retirement System.

12 4. Voluntary participation. Subsections 1 to 3 do not  
13 prohibit a Legislator who is not required to participate in the  
14 401(a) plan from voluntarily participating in the plan.

16 5. Waiver. A Legislator may petition that Legislator's  
17 presiding officer for a waiver from the participation provisions  
18 of this section if the Legislator can demonstrate that  
19 participation in the 401(a) plan will create or exacerbate that  
20 Legislator's federal income tax liability due to the ownership of  
21 another retirement plan. The Office of the Executive Director of  
22 the Legislative Council shall provide assistance as requested by  
23 the Legislator or presiding officer. The presiding officer shall  
24 respond to the Legislator's petition within 30 days and shall  
25 provide copies of the decision to the Executive Director of the  
26 Legislative Council and the Executive Director of the Maine State  
27 Retirement System. Unless a waiver is granted under this  
28 subsection or under section 801, subsection 1-A, a Legislator  
29 must participate in the Maine Legislative Retirement System under  
30 chapter 29 or the 401(a) plan under this chapter.

32 **§873. Election to terminate participation in Maine Legislative**  
33 **Retirement System and to participate in 401(a) plan**

34 1. Exercise option. The Maine Legislative Retirement  
35 System shall provide an opportunity for each Legislator who is an  
36 active member on December 6, 2000 to elect in writing to  
37 terminate membership in the Maine Legislative Retirement System  
38 and elect to become a qualified participant in the 401(a) plan.  
39 An election made by a Legislator under this subsection is  
40 irrevocable. The retirement system shall accept written  
41 elections under this subsection from Legislators during the  
42 period beginning on December 6, 2000 and ending on July 1, 2001.  
43 A Legislator who does not make a written election or who does not  
44 file the election during the period specified in this subsection  
45 continues to be a member of the Maine Legislative Retirement  
46 System. A Legislator who makes and files a written election  
47 under this subsection elects to:

48 A. Cease to be a member of the Maine Legislative Retirement  
49 System;

2           B. Become a qualified participant in the 401(a) plan; and

4           C. Waive all rights to a retirement allowance or any other  
6           benefit under the Maine Legislative Retirement System.

8           This subsection does not affect a person's right to health  
10           benefits provided under section 285.

10           2. Inactive members. If an individual who is an inactive  
12           member on December 6, 2000, whether or not vested, is later  
14           reelected, the Legislator shall elect in writing to remain a  
16           member of the Maine Legislative Retirement System or to terminate  
18           membership in the retirement system and become a qualified  
20           participant in the 401(a) plan. An election made by a Legislator  
22           under this subsection is irrevocable. The retirement system  
24           shall accept written elections under this subsection from a  
26           Legislator during the period beginning on the date of the  
28           individual's resumption of office and ending one year after that  
              date. A Legislator who makes and files a written election to  
              remain a member of the Maine Legislative Retirement System  
              retains all rights and is subject to all conditions as a member  
              of the retirement system under chapter 29. A Legislator who does  
              not make a written election or who does not file the election  
              during the period specified in this subsection continues to be a  
              member of the Maine Legislative Retirement System. A Legislator  
              who makes and files a written election to terminate membership in  
              the Maine Legislative Retirement System elects to:

30           A. Cease to be a member of the Maine Legislative Retirement  
32           System effective at 12:00 midnight on the last day of the  
              payroll period that includes the date of the election;

34           B. Become a qualified participant in the 401(a) plan  
36           effective at 12:01 a.m. on the first day of the payroll  
              period immediately following the date of the election; and

38           C. Waive all rights to a retirement allowance or any other  
40           benefit under the Maine Legislative Retirement System  
42           effective at 12:00 midnight on the last day of the payroll  
              period that includes the date of the election.

44           This subsection does not affect an individual's right to health  
              benefits provided under section 285.

46           3. Spousal notice. If the Legislator is married at the  
48           time of the election, the election is not effective unless the  
              election is signed by the individual's spouse.

2           **§874. Transfer of funds on termination of membership in**  
              **Maine Legislative Retirement System**

4           For a member who elects to participate in the 401(a) plan  
6           under section 873, subsection 1 or 2, the retirement system shall  
              transfer to the investment option or options selected under  
8           section 875, subsection 1 an amount equal to the present value of  
              future benefits due that member based on creditable service under  
10           the Maine Legislative Retirement System as determined by the  
              retirement system actuary. If a member who elects to participate  
12           in the 401(a) plan under section 873, subsection 1 or 2 has not  
              vested in the Maine Legislative Retirement System, the member's  
14           accumulated contributions together with regular interest on the  
              contributions must be transferred to the investment option or  
              options selected under section 875, subsection 1.

16           **§875. Investment of contributions; direction by participant;**  
18           **payment by employer; contractor bidding**

20           1. Member selection of investment options. In accordance  
              with this section, each qualified participant or refund  
22           beneficiary is solely responsible for the selection and  
              management of an option or options for the investment of that  
24           qualified participant's employee and employer contributions and  
              earnings. The qualified participant or refund beneficiary shall  
26           notify the employer of the investment option or options selected  
              and of any changes.

28           2. Contractor bidding. Not later than November 1, 2000,  
30           the employer shall select one or more firms to offer defined  
              contribution retirement plans for Legislators as a result of  
32           investigation and competitive bidding, as outlined in Title 5,  
              chapter 155. Following study and evaluation, a replacement or an  
34           additional firm or firms may be selected through competitive  
              bidding. Any firm selected in accordance with this subsection  
36           must be a registered investment advisor under the federal  
              Investment Company Act of 1940 or a bank or investment advisor  
38           authorized to receive or manage funds under the United States  
              Internal Revenue Code of 1986, as amended.

40           3. Investment options. Through competitive bidding as  
42           provided in subsection 2, the employer shall arrange for the  
              provision of a range of investment options from which qualified  
44           participants may select. The options must include a core of  
              investment choices that represent a balance of earning potential  
46           and security of principal. The options available may also  
              include, as directed by the employer, investment options that  
48           offer significantly greater risk and earning potential or more  
              investor security and principal protection than the core of



2 investment choices. No more than 20% of any qualified  
3 participant's investment options may be selected from outside the  
4 core investment choices.

5 4. Payment. The employer shall deduct from each qualified  
6 participant's pay the employee contributions provided in section  
7 878 and pay those amounts to the investment option or options  
8 selected by the qualified participant or refund beneficiary.

10 **§876. Administrative expenses**

11 Any administrative expenses incurred by the employer under  
12 the 401(a) plan must be paid by the qualified participants or  
13 refund beneficiaries in a manner prescribed by the employer.

16 **§877. Vesting**

17 A qualified participant is immediately vested in 100% of  
18 both the employee and employer contributions made under the  
19 401(a) plan.

22 **§878. Contributions**

23 A qualified participant shall contribute to the 401(a) plan  
24 at a rate of 7.65% of earnable compensation plus contributions at  
25 a rate necessary to fund the cost of funding disability and death  
26 benefits under section 880. Contributions by qualified  
27 participants under this section may be treated as employer  
28 contributions in accordance with Internal Revenue Code of 1986,  
29 Section 414(h).

32 **§879. Other public sector retirement benefits plan**  
33 **participation**

34 A qualified participant may not participate in any other  
35 public sector retirement benefits plan for simultaneous service  
36 rendered to the same public sector employer. This section does  
37 not prohibit a qualified participant from participating in an  
38 Internal Revenue Code, Section 457 plan or a Section 403(b) plan  
39 established by this State or other public sector employer.

42 **§880. Disability retirement and death benefits**

43 A Legislator who becomes disabled while participating in the  
44 401(a) plan may receive a disability retirement allowance on the  
45 same basis as provided for members of the Maine State Retirement  
46 System by Title 5, chapter 423, subchapter V, article 3-A. The  
47 refund beneficiary under the 401(a) plan is eligible for ordinary  
48 death or accidental death benefits on the same basis as is

2 provided for surviving beneficiaries under Title 5, chapter 423,  
3 subchapter V, articles 4 and 5.

4 **§881. Refund beneficiary**

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

18  
19 Further amend the bill in section 6 in subsection 1-A in  
20 paragraph B by striking out all of the first 2 lines (page 3,  
21 lines 21 and 22 in L.D.) and inserting in their place the  
22 following:

24 'B. The member has at least 5 years of creditable service  
25 and:'

26  
27 Further amend the bill in section 9 in subsection 3-A in the  
28 2nd and 3rd lines (page 4, lines 37 and 38 in L.D.) by striking  
29 out the following: "whether or not in service at retirement who"  
30 and inserting in its place the following: ', whether or not in  
31 service at retirement, who'

32  
33 Further amend the bill in section 14 in subsection 3 in the  
34 2nd and 3rd lines (page 7, lines 28 and 29 in L.D.) by striking  
35 out the following: "whether or not in service at retirement who"  
36 and inserting in its place the following: ', whether or not in  
37 service at retirement, who'

38  
39 Further amend the bill in section 18 in paragraph E by  
40 striking out all of the first 5 lines (page 8, lines 28 to 32 in  
41 L.D.) and inserting in their place the following:

42  
43 'E. Has at least 5 years of creditable service, which, for  
44 the purposes of determining completion of the 5-year  
45 requirement, may include creditable service as a member of  
46 the Maine Legislative Retirement System, and:'

47  
48 Further amend the bill in section 21 in paragraph D by  
49 striking out all of the first line (page 9, line 9 in L.D.) and  
50 inserting in its place the following:

2           'D. Has at least 5 years of creditable service, which, for  
4           the purposes of determining completion of the 5-year  
6           requirement, may include creditable service as a member of  
              the Maine Legislative Retirement System, and;'

8           Further amend the bill in section 22 in subsection 3 in the  
10          2nd line (page 7, line 27 in L.D.) by striking out the  
12          following: "whether or not in service at retirement who" and  
14          inserting in its place the following: ', whether or not in  
16          service at retirement, who'

18          Further amend the bill by inserting after section 23 the  
20          following:

22          '**Sec. 24. Expenditures in excess of allocations.** Expenditures of  
24          funds required by this Act other than the General Fund are  
26          authorized to exceed legislative allocations during the fiscal  
28          year ending June 30, 2001. Appropriate adjustments to basic work  
30          programs facilitating these expenditures in excess of allocations  
32          must be recommended by the State Budget Officer and approved by  
34          the Governor.'

36          **Sec. 25. Adjustment of rates.** After consultation with the  
38          Maine State Retirement System, the State Budget Officer shall  
40          adjust the normal cost component of the employer contribution  
42          rates on the effective date of this Act to fully fund this Act on  
44          an actuarially sound basis.

46          **Sec. 26. Repeal.** The Maine Legislative Retirement System  
48          shall submit legislation to repeal the Maine Revised Statutes,  
50          Title 3, chapter 29 as soon as practicable after all liabilities  
              of the retirement system have been discharged.'

**Sec. 27. Effective date; implementation.** This Act takes effect  
December 6, 2000, except that the Maine State Retirement System  
shall review the provisions of this Act and report in writing to  
the Legislative Council no later than November 1, 2000. The  
report must identify any technical, legal, fiscal or policy  
issues associated with implementation of this Act and include a  
draft of any necessary implementing legislation.'

              Further amend the bill by relettering or renumbering any  
nonconsecutive Part letter or section number to read  
consecutively.

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

**FISCAL NOTE**

2

4 This bill lowers from 10 years to 5 years the amount of  
6 creditable service needed for members of the Maine Legislative  
8 Retirement System and the Maine Judicial Retirement System and  
10 employee members of participating local districts who were in  
12 service or became employed on or after October 1, 1999, and in  
14 some cases, employees who returned to service after October 1,  
16 1999, to be eligible to receive a service retirement benefit at  
18 the applicable normal retirement age at which they qualify for  
20 benefits.

12

14 Reducing the minimum amount of service credit that these  
16 members must have to be eligible for service retirement benefits  
18 will increase the normal cost component of the employer  
20 contribution rate. For the Maine Legislative Retirement System,  
22 the employer contribution rate is an increase of 0.34%. Because  
24 of the overfunded status of the legislative plan, the employer  
26 contribution rate will not be affected. For the Maine Judicial  
28 Retirement System, the employer contribution rate is an increase  
30 of 0.04%. This increase is prospective only and whether the  
32 employer rate will in fact be higher in the next biennium will  
depend on the combined effect of all of the factors that affect  
employer rates.

34

36 In addition, this bill may increase the unfunded liability  
38 of the Maine State Retirement System if certain members of the  
40 Maine Legislative Retirement System elect to participate in a  
42 defined contribution plan. Pursuant to the Constitution of  
44 Maine, Article IX, Section 18-A, unfunded liabilities may not be  
46 created except those that result from experience losses. The  
Maine State Retirement System may require a one-time additional  
General Fund appropriation to fund the additional unfunded  
liability that may be created. The change to a defined  
contribution plan may also increase the normal cost component of  
the employer retirement rate and may result in additional ongoing  
retirement costs to the Legislature. These amounts can not be  
determined at this time.

48

50 The Legislature will require an additional General Fund  
appropriation in fiscal year 2000-01 to contract with a qualified  
consultant to implement a defined contribution retirement plan

2 for Legislators, including the competitive bidding process. The  
amount can not be determined at this time. The Legislature will  
4 incur additional costs to administer an optional defined  
contribution plan. The amount of the additional costs will  
6 depend on the number of Legislators who choose to participate in  
the plan. The bill requires the participants to pay for the  
administrative costs.

8  
10 The additional costs associated with processing changes for  
certain members and submitting the required report can be  
12 absorbed by the Maine State Retirement System utilizing existing  
budgeted resources.'

14

### SUMMARY

16

This amendment is the minority report of the committee. The  
18 amendment establishes a defined contribution retirement plan for  
Legislators beginning with the First Regular Session of the 120th  
20 Legislature. Legislators taking office at that time or after and  
those who had not vested at that time would be required to  
22 participate in the new 401(a) plan. Legislators with more than 5  
years of creditable service, former Legislators who are inactive  
24 members of the Maine Legislative Retirement System and certain  
other Legislators who are not currently required to join the  
26 Maine Legislative Retirement System would have the option of  
joining the new plan. The amendment provides a range of options  
28 for participants in the 401(a) plan, provides for disability and  
death benefits, sets contribution rates and prescribes the  
30 bidding process for selection of contract providers to manage the  
defined contribution plan.

32

The amendment clarifies language in the bill describing the  
34 manner by which a state employee, teacher, participating local  
district employee or judge who is a member of the Maine State  
36 Retirement System and who had less than 10 years of creditable  
service on July 1, 1993 qualifies for a retirement benefit.

38

It also adds a fiscal note to the bill.