

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1436

H.P. 1073

House of Representatives, March 5, 2001

**An Act to Provide Equity in the Retirement Plans for State Law
Enforcement Officers and Prison Guards.**

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative DUNLAP of Old Town.

Cosponsored by Representatives: CHICK of Lebanon, CLARK of Millinocket, HONEY of Boothbay, USHER of Westbrook, Senators: CARPENTER of York, KILKELLY of Lincoln.

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

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Sec. 1. 5 MRSA §17709, sub-§2, as repealed and replaced by PL 1995, c. 466, Pt. A, §1, is amended to read:

2. After August 31, 1984. A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 ~~and who elects the retirement option provided in section 17851, subsection 5-A~~ shall contribute to the retirement system or have pick-up contributions made by the employer ~~as provided in section 17852, subsection 5-A~~ at a rate of 7.5% of earnable compensation until the law enforcement officer has completed 25 years of creditable service and at a rate of 6.5% thereafter.

Sec. 2. 5 MRSA §17710, sub-§1-A, as enacted by PL 1995, c. 466, Pt. B, §2, is amended to read:

1-A. After August 31, 1984. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 ~~and who elects the retirement option provided in section 17851, subsection 6-A~~ shall contribute to the retirement system or have pick-up contributions made by the employer ~~as provided in section 17852, subsection 6-A~~ at a rate of 7.5% of earnable compensation until the law enforcement officer has completed 25 years of creditable service and at a rate of 6.5% thereafter.

Sec. 3. 5 MRSA §17851, sub-§5-A, as amended by PL 1997, c. 769, §4, is further amended to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984. ~~Except as provided in section 17851-A, a~~ A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit ~~upon reaching 55 years of age~~ after completing at least 25 years of creditable service in that capacity ~~if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 5-A.~~

Sec. 4. 5 MRSA §17851, sub-§6-A, as amended by PL 1997, c. 769, §6, is further amended to read:

6-A. Marine resources officers after August 31, 1984. ~~Except as provided in section 17851-A, a~~ A law enforcement officer in the Department of Marine Resources who was first

2 employed in that capacity after August 31, 1984 or who, if
4 employed in that capacity before August 31, 1984, ceased to be
6 employed in that capacity on or before that date and who
8 subsequently became reemployed in that capacity after that date
10 qualifies for a service retirement benefit ~~upon reaching 55 years~~
12 ~~of age~~ after completing at least 25 years of creditable service
14 in that capacity ~~if notice of election of the option and payment~~
16 ~~of employee contributions and actuarial costs are made as~~
18 ~~provided in section 17852, subsection 6-A.~~

20 **Sec. 5. 5 MRSA §17851, sub-§11**, as amended by PL 1999, c. 731,
22 Pt. CCC, §1, is further amended to read:

24 **11. Maine State Prison employees.** ~~Except as provided in~~
26 ~~section 17851-A,~~ the The warden or deputy warden of the Maine
28 State Prison, any officer or employee of the Maine State Prison
30 employed as a guard or in the management of prisoners or any
32 person employed as the supervising officer of those officers or
34 employees or as an advocate at the Maine State Prison qualifies
36 for a service retirement benefit if that person:

38 A. Was employed in one of those capacities before September
40 1, 1984 and:

42 (1) Completes 20 years of creditable service in one or
44 more of those capacities; and

46 (2) Retires upon or after reaching the age of 50
48 years; or

50 B. Was employed in one of those capacities after August 31,
1984 ~~and before January 1, 2000~~ and completed 25 years of
creditable service in one or more of those capacities.

Notwithstanding any other provision in this section, no person in
the employ of the Bangor Pre-Release Center on August 4, 1988 who
would have qualified for a service retirement benefit if the
Bangor Pre-Release Center had remained the administrative
responsibility of the Maine State Prison may be denied such a
benefit by virtue of the transfer of that responsibility to the
Charleston Correctional Facility.

A person in the employ of the Bangor Pre-Release Center to whom
paragraph A applies and who is employed at the Bangor Pre-Release
Center on June 30, 2000 remains covered under paragraph A
notwithstanding the closing of the Bangor Pre-Release Center if
the person is thereafter and without a break in service employed
in a capacity to which this subsection ~~of section 17851-A,~~
~~subsection 1, paragraph 1~~ applies or if not thereafter employed
in such a capacity but having qualified at the time of the

2 closing of the Bangor Pre-Release Center for retirement under
paragraph A, retires then or at a later time.

4 **Sec. 6. 5 MRSA §17851, sub-§11-A** is enacted to read:

6 **11-A. Other correctional employees.** Any employee of the
Department of Corrections on January 1, 2000 or hired thereafter,
8 other than those described in subsection 11, who is employed in a
correctional facility as defined in Title 34-A, section 1001 or
10 whose duties involve contact with prisoners, probationers,
parolees or juvenile offenders or any person employed as the
12 supervisor of those employees qualifies for a service retirement
benefit if that person completes 25 years of creditable service
14 in one or more of those capacities.

16 **Sec. 7. 5 MRSA §17851-A, sub-§1, ¶¶A and B,** as enacted by PL
1997, c. 769, §11, are repealed.

18 **Sec. 8. 5 MRSA §17851-A, sub-§1, ¶E,** as amended by PL 1999, c.
20 493, §4, is repealed.

22 **Sec. 9. 5 MRSA §17851-A, sub-§1, ¶I,** as enacted by PL 1999, c.
24 493, §6, is repealed.

26 **Sec. 10. 5 MRSA §17851-A, sub-§2,** as amended by PL 1999, c.
28 493, §7, is further amended to read:

30 **2. Qualification for benefits.** A member employed in any
one or a combination of the capacities specified in subsection 1
after June 30, 1998 for employees identified in subsection 1,
32 paragraphs A-~~to~~ C, E, G and H and after December 31, 1999 for
employees identified in subsection 1, paragraphs I-~~to~~ J and K,
34 qualifies for a service retirement benefit if that member either:

36 A. Is at least 55 years of age and has completed at least
10 years of creditable service under the 1998 Special Plan
38 in any one or a combination of the capacities; or

40 B. Has completed at least 25 years of creditable service in
any one or a combination of the capacities specified in
42 subsection 1, whether or not the creditable service included
in determining that the 25-year requirement has been met was
44 earned under the 1998 Special Plan or prior to its
establishment.

46 **Sec. 11. 5 MRSA §17851-A, sub-§3, ¶A,** as amended by PL 1999,
48 c. 493, §8, is further amended to read:

2 A. For the purpose of meeting the qualification requirement
of subsection 2, paragraph A:

4 (1) Service credit purchased by repayment of an
6 earlier refund of accumulated contributions following
8 termination of service is included only to the extent
10 that time to which the refund relates was served after
12 June 30, 1998 for employees identified in subsection 1,
paragraphs A-~~to~~ C, F, G and H and after December 31,
1999 for employees identified in subsection 1,
paragraphs I-~~to~~ J and K, in any one or a combination of
the capacities specified in subsection 1; and

14 (2) Service credit purchased other than as provided
16 under subparagraph (1), including but not limited to
service credit for military service, is not included.

18 **Sec. 12. 5 MRSA §17851-A, sub-§4, ¶A**, as repealed and replaced
20 by PL 1999, c. 489, §14 and amended by c. 493, §9, is repealed
and the following enacted in its place:

22 A. If all of the member's creditable service in any one or
24 a combination of the capacities specified in subsection 1
26 was earned after June 30, 1998 for employees identified in
28 subsection 1, paragraphs C, F, G and H and after December
30 31, 1999 for employees identified in subsection 1,
32 paragraphs J and K or if service credit was purchased by
34 repayment of an earlier refund of accumulated contributions
36 for service after June 30, 1998 for employees identified in
38 subsection 1, paragraphs C, F, G and H and after December
40 31, 1999 for employees identified in subsection 1,
42 paragraphs J and K, in any one or a combination of the
44 capacities specified in subsection 1, or if service credit
46 was purchased by other than the repayment of an earlier
refund and eligibility to make the purchase of the service
credit, including, but not limited to, service credit for
military service, was achieved after June 30, 1998 for
employees identified in subsection 1, paragraphs C, F, G and
H and after December 31, 1999 for employees identified in
subsection 1, paragraphs J and K, the benefit must be
computed as provided in section 17852, subsection 1. If the
member had 10 years of creditable service on July 1, 1993,
the benefit must be reduced as provided in section 17852,
subsection 3, paragraphs A and B, and, if the member had
fewer than 10 years of creditable service on July 1, 1993,
the benefit must be reduced by 6% for each year that the
member's age precedes 55 years of age.

48 **Sec. 13. 5 MRSA §17851-A, sub-§4, ¶B**, as repealed and replaced
50 by PL 1999, c. 731, Pt. CC, §5, is amended to read:

2 B. Except as provided in paragraph D, if some part of the
4 member's creditable service in any one or a combination of
6 the capacities specified in subsection 1 was earned before
8 July 1, 1998 for employees identified in subsection 1,
10 paragraphs A-~~to~~ C, F, G and H and before January 1, 2000 for
12 employees identified in subsection 1, paragraphs I-~~to~~ J and
14 K and some part of the member's creditable service in any
16 one or a combination of the capacities specified in
18 subsection 1 was earned after June 30, 1998 for employees
20 identified in subsection 1, paragraphs A-~~to~~ C, F, G and H
22 and after December 31, 1999 for employees identified in
24 subsection 1, paragraphs I-~~to~~ J and K, then the member's
26 service retirement benefit must be computed in segments and
28 the amount of the member's service retirement benefit is the
30 sum of the segments. The segments must be computed as
32 follows:

34 (1) The segment or, if the member served in more than
36 one of the capacities specified in subsection 1 and the
38 benefits related to the capacities are not
40 interchangeable under section 17856, segments that
42 reflect creditable service earned before July 1, 1998
44 for employees identified in subsection 1, paragraphs A
46 ~~to~~ C, F, G and H and before January 1, 2000 for
48 employees identified in subsection 1, paragraphs I-~~to~~ J
50 and K or purchased by repayment of an earlier refund of
accumulated contributions for service before July 1,
1998 for employees identified in subsection 1,
paragraphs A-~~to~~ C, F, G and H and before January 1,
2000 for employees identified in subsection 1,
paragraphs I-~~to~~ J and K in a capacity or capacities
specified in subsection 1, or purchased by other than
the repayment of a refund and eligibility to make the
purchase of the service credit, including, but not
limited to, service credit for military service, was
achieved before July 1, 1998 for employees identified
in subsection 1, paragraphs A-~~to~~ C, F, G and H and
before January 1, 2000 for employees identified in
subsection 1, paragraphs I-~~to~~ J and K, must be computed
under section 17852, subsection 1, paragraph A. If the
member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1,
1993, the amount of the segment or segments must
be reduced as provided in section 17852,
subsection 3, paragraphs A and B; or

(b) Had fewer than 10 years of creditable service
on July 1, 1993, the amount of the segment or

2 segments must be reduced as provided in section
17852, subsection 3-A; and

4 (2) The segment that reflects creditable service
6 earned after June 30, 1998 for employees identified in
subsection 1, paragraphs A-~~to~~ C, F, G and H and after
8 December 31, 1999 for employees identified in
subsection 1, paragraphs I-~~to~~ J and K or purchased by
10 repayment of an earlier refund of accumulated
contributions for service after June 30, 1998 for
12 employees identified in subsection 1, paragraphs A-~~to~~
C, F, G and H and after December 31, 1999 for employees
14 identified in subsection 1, paragraphs I-~~to~~ J and K in
any one or a combination of the capacities specified in
16 subsection 1, or purchased by other than the repayment
of a refund and eligibility to make the purchase of the
18 service credit, including, but not limited to, service
credit for military service, was achieved after June
20 30, 1998 for employees identified in subsection 1,
paragraphs A-~~to~~ C, F, G and H and after December 31,
1999 for employees identified in subsection 1,
22 paragraphs I-~~to~~ J and K, must be computed under section
17852, subsection 1, paragraph A. If the member is
24 qualified under subsection 2, paragraph B and:

26 (a) Had 10 years of creditable service on July 1,
1993, the segment amount must be reduced in the
28 manner provided in section 17852, subsection 3,
paragraphs A and B for each year that the member's
30 age precedes 55 years of age; or

32 (b) Had fewer than 10 years of creditable service
on July 1, 1993, the segment amount must be
34 reduced by 6% for each year that the member's age
precedes 55 years of age.

36 **Sec. 14. 5 MRSA §17851-A, sub-§4, ¶D,** as repealed and replaced
38 by PL 1999, c. 489, §14 and amended by c. 493, §9, is repealed
and the following enacted in its place:

40 D. The service retirement benefit of a member who is a
42 Maine State Prison employee who qualifies for service
44 retirement benefits under subsection 2, paragraph B must be
46 computed under section 17852, subsection 1, paragraph A on
the basis of all of the member's creditable service
regardless of whether the creditable service was earned
before, on or after July 1, 1998, except that:

48 (1) If the member had 10 years of service on July 1,
50 1993, the benefit must be reduced as provided in

2 section 17852, subsection 10, paragraph C,
3 subparagraphs (1) and (2); or

4 (2) If the member had fewer than 10 years of
5 creditable service on July 1, 1993, the benefit must be
6 reduced as provided in section 17852, subsection 10,
7 paragraph C-1.

8
9 **Sec. 15. 5 MRSA §17851-A, sub-§5,** as amended by PL 1999, c.
10 493, §9, is further amended to read:

11 **5. Contributions.** Notwithstanding any other provision of
12 subchapter III, after June 30, 1998, for employees identified in
13 subsection 1, paragraphs A-~~to~~ C, E, G and H, and after December
14 31, 1999, for employees identified in subsection 1, paragraphs I
15 to J and K, a member in the capacities specified in subsection 1
16 must contribute to the retirement system or have pick-up
17 contributions made at the rate of 8.65% of earnable compensation
18 until the member has completed 25 years of creditable service as
19 provided in this section and at the rate of 7.65% thereafter.
20

21 **Sec. 16. 5 MRSA §17851-A, sub-§6,** as enacted by PL 1997, c.
22 769, §11, is amended to read:

23 **6. Consequences of participation in retirement plan under**
24 **section 17851, subsection 5-A, 6-A or 8-A.** Notwithstanding any
25 other provision of law, a member in the capacities specified in
26 subsection 1 who, prior to July 1, 1998, elected the retirement
27 option provided in section 17851, subsection 5-A, ~~6-A or~~ 8-A is
28 treated as follows under the 1998 Special Plan.
29

30 **A.** A member who made the election at the time of first
31 employment in a position covered under section 17851,
32 subsection 5-A, ~~6-A~~ and 8-A is considered to be a member
33 under the 1998 Special Plan as of the date of hire.
34 Beginning July 1, 1998, a member covered by this paragraph
35 shall contribute to the retirement system or have pick-up
36 contributions made at a rate of 8.65% of earnable
37 compensation until completion of 25 years of creditable
38 service and shall contribute at a rate of 7.65% thereafter.
39

40 **B.** A member who was serving in a position covered under
41 section 17851, subsection 5-A, ~~6-A or~~ 8-A at the time of the
42 election and who elected to participate in the retirement
43 option prospectively from the time of election is considered
44 to be a member under the 1998 Special Plan as of the
45 effective date of the election. Beginning July 1, 1998, a
46 member covered by this paragraph shall contribute to the
47 retirement system or have pick-up contributions made at a
48 rate of 8.65% of earnable compensation until completion of
49 service and shall contribute at a rate of 7.65% thereafter.
50

25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

C. A member who was serving in a position covered under section 17851, subsection 5-A, ~~6-A or~~ 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, provided that all of the payments required under section 17852, subsection 5-A, ~~6-A or~~ 7-A are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

Employee contributions and actuarial and administrative costs paid to the retirement system by a member covered by this subsection may not be returned to that member, except that these employee contributions may be refunded to a member who terminates service and requests a refund under section 17705.

Sec. 17. 5 MRSA §17852, sub-§5-A, as amended by PL 1997, c. 769, §12, is further amended to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984. ~~Except as provided in section 17851-A, the~~ The retirement benefit of a person who qualifies under section 17851, subsection 5-A and who retires upon or after ~~reaching 55 years of age~~ completing 25 years of creditable service is computed in accordance with subsection 1 if:

~~A. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife on or after November 1, 1995, elects the option provided in section 17851, subsection 5-A and pays to the retirement system an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or~~

~~B. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife before November 1, 1995, elects the option provided in~~

2 section 17851, subsection 5-A and pays to the retirement
3 system single or periodic payment of a lump sum or by a
4 combination of single and periodic payments of the amount
5 that equals the full actuarial cost of electing that option
6 for service before that date. A person who requests
7 calculation of the full actuarial cost, regardless of
8 whether the person elects the option, must pay to the
9 retirement system by single lump sum payment the reasonable
10 administrative costs of determining the full actuarial
11 costs. Payment of the full actuarial cost related to
12 service on or after November 1, 1995 is made as part of the
employee payroll contribution.

14 For the purposes of this subsection, "full actuarial cost" means
15 that the person's payment or payments must fully offset any
16 unfunded liability that would or does result from retirement
17 under the option provided in section 17851, subsection 5-A and
18 must fully fund the cost of the person's retirement prior to
19 normal retirement age so that an additional employer contribution
20 is not required.

22 A person who makes the election provided in section 17851,
23 subsection 5-A at any time after the date on which the person is
24 first employed as a law enforcement officer in the Department of
25 Inland Fisheries and Wildlife must include interest at a rate to
26 be set by the board not to exceed regular interest by 5 or more
27 percentage points, applied as of the date on which the person was
28 first employed in that capacity to the contributions the person
29 would have paid or had picked up by the employer had the person
30 elected that option at the date of first employment.

32 This subsection is effective November 1, 1995. Election to
33 retire under this subsection is a one-time irrevocable election.
34 A person who was first employed as a law enforcement officer in
35 the Department of Inland Fisheries and Wildlife on or after
36 November 1, 1995 must make the election no later than 90 days
37 after the date of first employment. A person who was first
38 employed in that capacity before November 1, 1995 must make the
39 election no later than January 1, 1997.

41 **Sec. 18. 5 MRSA §17852, sub-§5-B,** as amended by PL 1997, c.
42 769, §13, is repealed.

44 **Sec. 19. 5 MRSA §17852, sub-§6-A,** as amended by PL 1997, c.
45 769, §14, is further amended to read:

46 **6-A. Marine resources officers after August 31, 1984.**
47 ~~Except as provided in section 17851-A, the~~ The retirement benefit
48 of a person qualifying under section 17851, subsection 6-A who
49 retires upon or after reaching ~~55 years of age~~ completing 25

2 years of creditable service is computed in accordance with
3 subsection 1 if:

4 A.---The person was first employed as a law enforcement
5 officer in the Department of Marine Resources on or after
6 November 1, 1995, elects the option provided in section
7 17851, subsection 6 A and pays to the retirement system an
8 increased employee payroll contribution in an amount that
9 equals the full actuarial cost of electing that option, or

10 B.---The person was first employed in that capacity before
11 November 1, 1995, elects the option provided in section
12 17851, subsection 6 A and pays to the retirement system by
13 single or periodic payment of a lump sum or by a combination
14 of single and periodic payments the amount that equals the
15 full actuarial cost of electing that option for service
16 before that date. A person who requests calculation of the
17 full actuarial cost, regardless of whether the person elects
18 the option, must pay to the retirement system by single lump
19 sum payment the reasonable administrative costs of
20 determining the full actuarial costs. Payment of the full
21 actuarial cost related to service on or after November 1,
22 1995 is made as part of the employee payroll contribution.

23 For the purpose of this subsection, "full actuarial cost" means
24 that the person's payment or payments must fully offset any
25 unfunded liability that would or does result from retirement
26 under the option provided in section 17851, subsection 6 A and
27 must fully fund the cost of the person's retirement prior to
28 normal retirement age so that an additional employer contribution
29 is not required.

30 A person who makes the election provided in section 17851,
31 subsection 6 A at any time after the date on which the person is
32 first employed as a law enforcement officer in the Department of
33 Marine Resources must include interest at a rate to be set by the
34 board not to exceed regular interest by 5 or more percentage
35 points, applied as of the date on which the person was first
36 employed in that capacity to the contributions the person would
37 have paid or had picked up by the employer had the person elected
38 that option at the date of first employment.

39 This subsection is effective November 1, 1995. Election to
40 retire under this subsection is a one-time irrevocable election.
41 A person who was first employed as a law enforcement officer in
42 the Department of Marine Resources on or after November 1, 1995
43 must make the election no later than 90 days after the date of
44 first employment. A person who was first employed in that
45 capacity before November 1, 1995 must make the election no later
46 than January 1, 1997.

