

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1754

S.P. 576

In Senate, March 27, 2001

**An Act to Amend the Laws of the Maine State Retirement System.**

(EMERGENCY)

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Submitted by the Maine State Retirement System pursuant to Joint Rule 204.  
Reference to the Committee on Labor suggested and ordered printed.

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator EDMONDS of Cumberland.  
Cosponsored by Representative TREADWELL of Carmel.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** this legislation establishes the Consumer Price  
Index for All Urban Consumers as the benchmark for the  
cost-of-living adjustment available under the Maine Retirement  
8           System laws because that index is the most reflective of the  
purchasing power of the dollar for the broadest population of  
10           consumers, including retired consumers; and

12           **Whereas,** current law prescribes that the actuary of the  
Maine State Retirement System perform investigations of the  
14           experience of the retirement system with respect to the factors  
that affect the cost of the benefits provided by the retirement  
16           system as frequently as the actuary considers expedient but at  
least once in every 3-year period; and

18           **Whereas,** current law does not accord with recommendations of  
the actuary and causes significant undue expense and work; and

22           **Whereas,** immediate enactment of this legislation is  
necessary to avoid unnecessary expense and work in the year 2001;  
24           and

26           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
28           Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
30           safety; now, therefore,

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

34           **Sec. 1. 3 MRSA §705** is enacted to read:

36           **§705. Single plan**

38           Notwithstanding any other provision of law, for purposes of  
40           financial reporting and related financial administration, the  
42           Maine State Retirement System administers a single retirement  
44           plan, the accumulated assets of which may be used to pay  
46           benefits, including refunds of member contributions, to members  
48           or beneficiaries of members under any plan administered by the  
50           Maine State Retirement System under this chapter, Title 4,  
          chapter 27 or Title 5, Part 20. With respect to any employer  
          that provides for retirement benefits for its employees through  
          the Maine State Retirement System, nothing in this section  
          obligates or may be construed to obligate that employer to fund  
          any liability other than that arising and accruing to it under  
          the Maine State Retirement System plan or plans provided by that

2 employer for its employees, which obligation is hereby explicitly  
3 affirmed.

4 **Sec. 2. 3 MRSA §731, sub-§4**, as corrected by RR 1997, c. 2,  
5 §5, is amended to read:

6  
7 **4. Oath.** Each trustee shall, ~~within 10 days after September~~  
8 ~~19, 1985 and thereafter,~~ within 10 30 days after that trustee's  
9 appointment ~~or election,~~ take an oath of office to faithfully  
10 discharge the duties of a trustee, in the form prescribed by the  
11 Constitution of Maine. This oath must be subscribed to by the  
12 trustee making it, certified by the officer before whom it is  
13 taken and immediately filed in the office of the Secretary of  
14 State.

15 **Sec. 3. 4 MRSA §1205** is enacted to read:

16  
17 **§1205. Single plan**

18  
19 Notwithstanding any other provision of law, for purposes of  
20 financial reporting and related financial administration, the  
21 Maine State Retirement System administers a single retirement  
22 plan, the accumulated assets of which may be used to pay  
23 benefits, including refunds of member contributions, to members  
24 or beneficiaries of members under any plan administered by the  
25 Maine State Retirement System under this chapter, Title 3,  
26 chapter 29 or Title 5, Part 20. With respect to any employer  
27 that provides for retirement benefits for its employees through  
28 the Maine State Retirement System, nothing in this section  
29 obligates or may be construed to obligate that employer to fund  
30 any liability other than that arising or accruing to it under the  
31 Maine State Retirement System plan or plans provided by that  
32 employer for its employees, which obligation is hereby explicitly  
33 affirmed.

34  
35 **Sec. 4. 4 MRSA §1231, sub-§4**, as amended by PL 1999, c. 127,  
36 Pt. A, §1, is further amended to read:

37  
38 **4. Oath.** Each trustee shall, ~~within 10 days after December~~  
39 ~~1, 1984 or thereafter,~~ within 10 30 days after that trustee's  
40 appointment ~~or election,~~ take an oath of office to faithfully  
41 discharge the duties of a trustee, in the form prescribed by the  
42 Constitution of Maine. The oath must be subscribed to by the  
43 trustee making it, certified by the officer before whom it is  
44 taken and immediately filed in the office of the Secretary of  
45 State.

46  
47 **Sec. 5. 5 MRSA §17001, sub-§9, ¶¶A and B**, as enacted by PL  
48 1985, c. 801, §§5 and 7, are amended to read:

49  
50

2 A. ~~The Consumer Price Index for Urban-Wage-Earners--and~~  
~~Clerical-Workers--United-States--City--Average--All--items,~~  
4 ~~1967--a--100 All Urban Consumers, CPI-U,~~ as compiled by the  
6 Bureau of Labor Statistics, United States Department of  
Labor; or

8 B. If the index described in paragraph A is revised or  
superseded, ~~the--Consumer-Price-Index--shall--be--the--index~~  
10 ~~represented--by--the--Bureau--of--Labor--Statistics--as--reflecting~~  
12 ~~most--accurately~~ the board must employ the Consumer Price  
Index compiled by the Bureau of Labor Statistics, United  
14 States Department of Labor that the board finds to be most  
reflective of changes in the purchasing power of the dollar  
for the broadest population of consumers, including retired  
16 consumers.

18 **Sec. 6. 5 MRSA §17053-A** is enacted to read:

20 **§17053-A. Single plan**

22 Notwithstanding any other provision of law, for purposes of  
financial reporting and related financial administration, the  
24 retirement system administers a single retirement plan, the  
accumulated assets of which may be used to pay benefits,  
26 including refunds of member contributions, to members or  
beneficiaries of members under any plan administered by the  
28 retirement system under this Part, Title 3, chapter 29 or Title  
4, chapter 27. With respect to any employer that provides for  
30 retirement benefits for its employees through the retirement  
system, nothing in this section obligates or may be construed to  
32 obligate that employer to fund any liability other than that  
arising and accruing to it under the retirement system plan or  
34 plans provided by the employer for its employees, which  
obligation is hereby explicitly affirmed.

36 **Sec. 7. 5 MRSA §17102, sub-§4,** as enacted by PL 1985, c. 801,  
38 §§5 and 7, is amended to read:

40 **4. Oath.** Each trustee shall, within 10 30 days after his  
the trustee's appointment or election, take an oath of office to  
42 faithfully discharge the duties of a trustee, in the form  
prescribed by the Constitution of Maine.

44 A. The oath shall must be subscribed to by the trustee  
making it.

46 B. The oath shall must be certified by the officer before  
48 whom it was taken and immediately filed in the office of the  
Secretary of State.

50

2           **Sec. 8. 5 MRSA §17107, sub-§2, ¶E**, as enacted by PL 1985, c.  
801, §§5 and 7, is amended to read:

4           E. The actuary shall make whatever investigations he deems  
6           the actuary considers necessary of the experience of the  
retirement system with respect to the factors which that  
8           affect the cost of the benefits provided by the retirement  
system.

10           (1) The purpose of the investigations is to determine  
12           the actuarial assumptions to be recommended to the  
board for adoption in connection with actuarial  
determinations required under this Part.

14           ~~(2) These investigations shall be made as frequently~~  
16           ~~as the actuary deems expedient, but shall be made at~~  
18           ~~least once in each 3 year period following January 1,~~  
1976.

20           (2-A) These investigations must be made whenever the  
22           board, on recommendation of the actuary, determines an  
24           investigation to be necessary to the actuarial  
26           soundness or prudent administration of the plan or  
28           plans to which the investigation is related. The  
30           determination must take into account plan demographics  
32           and changes in plan demographics, employment patterns  
34           and projections, relevant economic measures and  
36           expectations and other factors that the board or  
38           actuary considers significant. With respect to the  
retirement system plan for state employees and  
teachers, if 6 fiscal years have elapsed without an  
investigation being conducted, the board must either  
conduct an investigation within the next fiscal year or  
must record in the official minutes of a meeting of the  
board, in each fiscal year until the year in which an  
investigation is conducted, its decision not to do so  
and the reason or reasons for its decision.

40           **Sec. 9. 5 MRSA §17655, sub-§1, ¶B**, as amended by PL 1991, c.  
479, §1, is further amended to read:

42           B. Any employee who enlists in or is inducted or drafted  
44           into the service of the Armed Forces of the United States in  
46           ~~a federally recognized period of conflict, as defined in~~  
47           ~~Title 37-B, section 504, subsection 4, paragraph A-1,~~  
48           ~~subparagraph (3), including:~~

48           (1) ~~During World War I between April 6, 1917, and~~  
50           ~~March 3, 1921, and~~

2           **Sec. 10. 5 MRSA §17851, sub-§4, ¶B**, as amended by PL 1999, c.  
731, Pt. CC, §3, is further amended to read:

4           B. Became a state police officer after September 15, 1984  
6           or a special agent investigator before June 21, 1982 and  
7           completed 25 years of creditable service as a state police  
8           officer or special agent investigator, which may include  
creditable service under section 17760.

10           **Sec. 11. 5 MRSA §18254, first ¶**, as enacted by PL 1985, c. 801,  
§§5 and 7, is amended to read:

12           The withdrawal of a participating local district from the  
14           retirement system has the following effects on an employee of the  
15           district and on the district itself.

16           **Sec. 12. 5 MRSA §18254, sub-§3**, as enacted by PL 1985, c. 801,  
18           §§5 and 7, is amended to read:

20           **3. Former employee receiving or eligible for retirement**  
21           **benefits.** ~~For~~ Except as provided in subsection 5, for a former  
22           employee who is receiving retirement benefits or is eligible for  
23           retirement benefits, the district ~~shall continue~~ continues to be  
24           a participating local district and that person ~~shall--be~~ is  
25           subject to this Part.

26           **Sec. 13. 5 MRSA §18254, sub-§5** is enacted to read:

28           **5. Conditions under which withdrawn participating local**  
30           **district is no longer participating local district.** A  
31           participating local district that has no former employees  
32           eligible for retirement benefits under subsection 3 and no former  
33           employees covered under subsection 4 is no longer a participating  
34           local district when:

36           A. The participating local district's status as a  
37           participating local district is based solely on the  
38           existence of a former employee or employees who are retirees  
39           receiving retirement benefits or on the existence of current  
40           or potential beneficiaries of such retirees who are  
41           receiving or potentially entitled to receive benefits; and

42           B. The district satisfies fully all liabilities as measured  
43           by the retirement system for those to whom paragraph A  
44           applies:

46                   (1) In accordance with state and federal law; and

48                   (2) According to standards and procedures approved by  
50                   the board as determined by the board to protect the

2 interests of current and potential benefit recipients  
3 and any other affected or potentially affected person  
4 or entity. Such procedures may include, but are not  
5 limited to, the establishment by purchase or otherwise  
6 of an annuity or annuities as a means of satisfying the  
7 district's liabilities.

8 Having satisfied its liabilities in compliance with this  
9 subsection, a district is no longer a participating local  
10 district, and the retirement system must return to it any assets  
11 in the district's retirement system account exceeding the amount  
12 necessary to comply. Satisfaction of district liabilities  
13 pursuant to this subsection bars any future claim by any person  
14 against the retirement system for liability to or responsibility  
15 for any retiree, beneficiary or the district, and a retiree,  
16 beneficiary or the district is not thereafter subject to this  
17 Part.

18 **Sec. 14. 5 MRSA §18258, sub-§1, ¶B,** as amended by PL 1991, c.  
19 479, §4, is further amended to read:

20  
21 B. Any employee who enlists in or is inducted or drafted  
22 into the service of the Armed Forces of the United States in  
23 a ~~federally-recognized-period-of-conflict, as defined in~~  
24 ~~Title 37-B, section 504, subsection 4, paragraph A-1,~~  
25 ~~subparagraph (3), including;~~

26  
27 ~~(1) During World War I between April 6, 1917, and~~  
28 ~~March 3, 1921, and~~

29  
30 **Sec. 15. Single plan.** In accordance with the provisions of the  
31 Maine Revised Statutes, Title 3, section 705, Title 4, section  
32 1205 and Title 5, section 17053-A, for purposes of the reporting  
33 standard set out in Government Accounting Standards Board  
34 Statement No. 25, paragraph 16, the Maine State Retirement System  
35 administers a single retirement plan, the accumulated assets of  
36 which may be used to pay benefits, including refunds of member  
37 contributions, to members or beneficiaries of members under any  
38 plan administered by the Maine State Retirement System.

39  
40 **Sec. 16. Legislative findings.** In establishing the Consumer  
41 Price Index for All Urban Consumers as the benchmark for the  
42 cost-of-living adjustment available under the laws governing the  
43 Maine State Retirement System in the Maine Revised Statutes,  
44 Title 5, section 17001, subsection 9, paragraph A, the  
45 Legislature finds that that index is the most reflective of the  
46 purchasing power of the dollar for the broadest population of  
47 consumers, including retired consumers.



Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

## SUMMARY

This bill makes the following changes to the laws governing the Maine State Retirement System.

1. It replaces the current 10-day period for swearing a newly appointed or reappointed trustee of the Maine Legislative Retirement System, Maine Judicial Retirement System and the Maine State Retirement System with the 30-day period generally provided by law for the swearing of similar appointees.

2. It establishes the CPI-U, Consumer Price Index for All Urban Consumers, as the benchmark for the cost-of-living adjustment available under the statutes governing the Maine State Retirement System, because that index is the most reflective of the purchasing power of the dollar for the broadest population of consumers, including retired consumers.

3. It clarifies that, for purposes of financial reporting and administration, the Maine State Retirement System is a single retirement plan.

4. It establishes standards for the determination by the Board of Trustees of the Maine State Retirement System and the system's actuary that a study of plan experience is necessary for the actuarial soundness or prudent administration of the system's plans, replacing the current fixed 3-year study requirement for the state employee and teacher plan and establishing a standard for studies of plan experience under the system's other plans.

5. It allows service credit in order to qualify for a service retirement benefit under a special plan to a state employee, teacher member or participating local district member interrupting employment for any service in the Armed Forces, removing the current limitation to service during a federally recognized period of conflict as defined by federal law. The federal Uniformed Services Employment and Reemployment Rights Act now mandates that all service in the Armed Forces be recognized under these circumstances by the Maine State Retirement System.

6. It articulates the longstanding policy of the Maine State Retirement System to allow state police officers covered under the post-1984 state police special plan service credit for purchased service in the Armed Forces.

2           7.    It   establishes   the   conditions   under   which   a  
3   participating   local   district   that   has   withdrawn   from   the   Maine  
4   State   Retirement   System   may   satisfy   its   liabilities   for   benefits  
5   in   order   to   receive   back   from   the   retirement   system   district  
6   assets   remaining   after   liabilities   are   satisfied   and   authorizes  
7   the   retirement   system   to   pay   over   such   assets.