

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 730, L.D. 1009, Bill, "An Act Concerning Retirement Benefits for State Employees"

Amend the amendment by striking out everything after the title and before the summary and inserting in its place the following:

'Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 4 MRSA §1201, sub-§3, as repealed and replaced by PL 1989, c. 133, §15, is amended to read:

3. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as a judge, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest; or

B. The average annualized rate of earnable compensation of a member during the entire period of creditable service if that period is less than 3 years.

If a member took one or more days off without pay during the fiscal year beginning July 1, 2002, as authorized by the State Court Administrator, and the member elects to make the contribution provided for in section 1306, the average final

SENATE AMENDMENT

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compensation must be determined as if the member had not taken those days off without pay.

Sec. 2. 4 MRSA §1306 is enacted to read:

§1306. Back contribution for certain days off without pay

1. Election. If the Maine Judicial Retirement System determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as described in section 1201, subsection 3, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that person would have made on wages that would have been paid to that person on the days off without pay during the 2002-03 fiscal year as described in section 1201, subsection 3, plus interest at the same rate as that required for payment of back contributions pursuant to Title 5, section 17704, subsection 3. If the member elects to make the payment, the Maine Judicial Retirement System shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the Maine Judicial Retirement System shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year.

Sec. 3. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 1993, c. 410, Pt. RR, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without

2 pay as authorized by legislative action or days off without
3 pay resulting from any executive order declaring or
4 continuing a state of emergency relating to the lack of an
5 enacted budget document for fiscal years ending June 30,
6 1992 and June 30, 1993, or, if a member elects to make the
7 payments as set forth in section 17704-B, as a result of
8 days off without pay as authorized by legislative action, by
9 the State Court Administrator or from executive order for
10 the fiscal year beginning July 1, 2002, or, if a member is
11 subject to days off without pay, not to exceed 10 days in
12 each fiscal year ending June 30, 1992 and June 30, 1993, as
13 a result of actions taken by local school administrative
14 units to offset school subsidy reductions or,
15 notwithstanding section 18202, as a result of actions of a
16 participating local district to offset reductions in
17 municipal revenue sharing or a combination thereof, for the
18 3-year average final compensation must be determined as if
19 the member had not been temporarily laid off, reduced in pay
20 or provided days off without pay; or

22 **Sec. 4. 5 MRSA §17704-B** is enacted to read:

24 **§17704-B. Back contributions for certain days off without pay**

26 1. Election. If the retirement system determines at the
27 time a member retires that the member's benefit would be
28 increased as a result of the inclusion of compensation that would
29 have been paid for fiscal year 2002-03 days off without pay as
30 provided in section 17001, subsection 4, paragraph A, the
31 retirement system shall advise the member of that result and
32 shall allow the member to elect to have that compensation
33 included in the calculation of the member's benefit and to make
34 payments set forth in subsection 2.

36 2. Payment. The amount that a member who makes the
37 election permitted in subsection 1 must pay is the amount equal
38 to the employee contribution that member would have made on wages
39 that would have been paid to that member on the days off without
40 pay during the 2002-03 fiscal year as provided in section 17001,
41 subsection 4, paragraph A, plus interest at the same rate as that
42 required for payment of back contributions pursuant to section
43 17704, subsection 3. If the member elects to make the payment,
44 the retirement system shall withhold the required amount from the
45 member's first retirement benefit check.

46 3. Benefit calculation. If the member fails to make the
47 election within 31 days of the notification provided under
48 subsection 1, the retirement system shall calculate the member's
49 retirement benefit without inclusion of the days off without pay
50

during the 2002-03 fiscal year as provided in section 17001,
subsection 4, paragraph A.

Sec. 5. Employee contribution; transition. A member of the Maine State Retirement System or the Maine Judicial Retirement System who retired before the effective date of this Act may ask the retirement system to determine whether inclusion of the wages from days off without pay as provided in the Maine Revised Statutes, Title 4, section 1201 or Title 5, section 17001, subsection 4, paragraph A would increase that member's retirement benefit. If it would, the retirement system shall allow the retiree to make an election and payments as provided in Title 4, section 1306 or Title 5, section 17704-B. A retiree is not entitled to retroactive payment of any increase in the benefit resulting from inclusion of the days off without pay.

Sec. 6. Special retirement rate assessment. Notwithstanding any other provision of law, the State Budget Officer shall calculate a special retirement rate assessment for all departments and agencies necessary to fund the employer's share of the costs of this legislation, estimated to be \$76,081. The State Budget Officer shall divide the cost by the total salaries and wages paid by state departments and agencies during the time period from July 1, 2003 to September 30, 2003 and apply that percentage as an assessment against all affected accounts so that \$76,081 is available on October 1, 2003 for payment to the Maine State Retirement System.'

SUMMARY

This amendment incorporates provisions from the bill, from Committee Amendment "A" and from House Amendment "A" to Committee Amendment "A" (H-517) and makes several additional changes. It allows state employees who took days off without pay during the fiscal year beginning on July 1, 2002, to have the compensation that would have been paid on those days included in their average final compensation, provided they elect to contribute to the Maine State Retirement System the employee contribution that would have been paid on that compensation, plus interest.

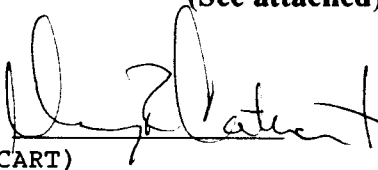
The amendment covers state employees in all branches of state government, including those employed by the Legislative and Judicial Departments and those covered by the Judicial retirement plan. If the employee elects to have that compensation included in average final compensation for purposes of determining the person's retirement benefit, the Maine State Retirement System would withhold the required contribution from the person's first retirement benefit check. A person who retired prior to the

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 730,
L.D. 1009

2 effective date of the change in law may ask the retirement system
to determine whether inclusion of the compensation would increase
4 the person's benefit and, if it does, the person may elect to
have the required contribution withheld from the person's
6 retirement check and to begin receiving the higher amount
prospectively.

8 This amendment provides for a special retirement cost
assessment to be applied to all departments and agencies from
10 July 1, 2003 to September 30, 2003 to fund the employer's share
of the costs associated with those current and future retirees
12 for whom it is expected that fiscal year 2002-03 could be one of
the average final compensation years used in the benefit
14 calculation. This amendment requires the State Budget Officer to
divide the cost by the total salaries and wages paid by state
16 departments and agencies during the first quarter of fiscal year
2003-04 and apply that percentage as an assessment against all
18 affected accounts so that the funds are available on October 1,
2003 for payment to the Maine State Retirement System.

22
24 **FISCAL NOTE REQUIRED**
(See attached)

26
28 SPONSORED BY: 

(Senator CATHCART)

30 COUNTY: Penobscot
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SENATE AMENDMENT

**121st Maine Legislature
Office of Fiscal and Program Review**

**LD 1009****An Act Concerning Retirement Benefits for State Employees**

LR 1654(07)

Fiscal Note for Senate Amendment 'A' to Committee Amendment 'A'

Sponsor: Sen. Cathcart

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	(\$76,081)	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	(\$76,081)	\$0	\$0	\$0

Fiscal Detail and Notes

This amendment eliminates the General Fund appropriation in the bill and provides for a special retirement rate assessment to be applied to all departments and agencies from July 1, 2003 to September 30, 2003 to fund the employer's share of the costs, estimated by the Maine State Retirement System to be \$76,081, associated with those current and future retirees for whom it is expected that fiscal year 2002-03 could be one of the average final compensation years used in the benefit calculation. The impact to General Fund accounts is estimated to be \$35,378; the impact to Highway Fund accounts is expected to be approximately \$12,781; and the impact to other fund accounts is estimated to be \$27,922. The ability of departments and agencies to absorb this cost can not be determined at this time.