

MAINE STATE LEGISLATURE

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2008

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L.D. 1223

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Date: 12-18-07

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LABOR

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Reproduced and distributed under the direction of the Secretary of the Senate.

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STATE OF MAINE

6

SENATE

7

123RD LEGISLATURE

8

SECOND REGULAR SESSION

9

COMMITTEE AMENDMENT "B" to S.P. 424, L.D. 1223, Bill, "An Act To
10 Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers"

11

Amend the bill by striking out all of section 10 and inserting the following:

12

**'Sec. 10. Corrections and Mental Health Workers Service Retirement
13 Benefit Reserve; established.** Notwithstanding the Maine Revised Statutes, Title 5,
14 section 1536, there is established the Corrections and Mental Health Workers Service
15 Retirement Benefit Reserve for the purpose of accumulating funds that would otherwise
16 be payable to the Retirement Allowance Fund. The assets of the Corrections and Mental
17 Health Workers Service Retirement Benefit Reserve must be held by the Maine Public
18 Employees Retirement System as assets of the system apart from other assets attributable
19 to the state employee and teacher retirement program of the system. These assets must be
20 accounted for by the system in the manner it determines to reflect the requirements of this
21 Act. The Corrections and Mental Health Workers Service Retirement Benefit Reserve
22 must be used to reserve funds to meet the full actuarial costs arising from the
23 implementation of those sections of this Act that enact Title 5, section 17851-A,
24 subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5,
25 including normal cost rates for the 6 years following the effective date of this Act. Any
26 funds remaining in the Corrections and Mental Health Workers Service Retirement
27 Benefit Reserve at the end of each fiscal year must be carried forward to be used for the
28 same purposes. Expenditures may not be made from this reserve and appropriations may
29 not be considered to be made to the Retirement Allowance Fund or the Maine Public
30 Employees Retirement System from this reserve except as provided in this Act or by
31 further authorization of the Legislature.'

32

Amend the bill in section 11 in the 8th line (page 4, line 17 in L.D.) by striking out
33 the following: "State" and inserting the following: 'Public Employees'

34

Amend the bill in section 11 in the last line (page 4, line 23 in L.D.) by inserting after
35 the following: "section 1536." the following: 'In addition, beginning on the effective
36 date of this Act, members of the Maine Public Employees Retirement System as
37 identified in Title 5, section 17851-A, subsection 1, paragraph I and members who are

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COMMITTEE AMENDMENT " B " to S.P. 424, L.D. 1223

1 employees of the Department of Health and Human Services as of January 1, 2000 or
2 hired thereafter who are employed in mental health institutions and whose duties involve
3 providing direct care, meaning services or treatment essential to everyday security, health
4 and well-being, to residents or patients of those institutions or to wards of the State shall
5 contribute to their individual retirement accounts an additional 1% of earnable
6 compensation until the contingency set out in section 14 of this Act is satisfied by the
7 required certification. Such contributions are included as accumulated contributions as
8 defined in Title 5, section 17001, subsection 1 but must be refunded in full to any
9 member contributing them who retires on or before the effective date of those sections of
10 this Act that enact Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5,
11 section 17851-A, subsections 2, 3, 4 and 5 pursuant to section 15 of this Act.'

12 Amend the bill by striking out all of sections 12 to 15 and inserting the following:

13 **'Sec. 12. Funding of benefit changes that are effective prospectively after**
14 **the effective date of this Act and payment of the related normal cost increase**
15 **in the current and following five years.** With respect to an employee's service after
16 September 1, 2008 in a position to which this Act applies, the increase in normal cost
17 contributions resulting from the increased normal cost rate that is necessary to support the
18 changed benefits as they are earned must be estimated by the Maine Public Employees
19 Retirement System based on the total payroll for the positions to which this Act applies as
20 of the pay date closest to August 1, 2008. The amount of the increased normal cost
21 contributions must be paid from the funds transferred to the Corrections and Mental
22 Health Workers Service Retirement Benefit Reserve under this Act. The Maine Public
23 Employees Retirement System shall pay these increased contributions not later than
24 September 1st of each year through September 1, 2013, each as a single lump sum,
25 reducing the funds held in the Corrections and Mental Health Workers Service
26 Retirement Benefit Reserve by the amount required to fully pay the estimated amount of
27 the increased contributions for the remainder of each respective year and transferring that
28 amount on the books of the system to the general assets of the state employee and teacher
29 retirement program. After the last payroll of each of the current and following 5 years is
30 paid, the Maine Public Employees Retirement System shall reconcile, for each year, the
31 estimated with the required actual amount of the increased contributions, adjusting the
32 reduction of the Corrections and Mental Health Workers Service Retirement Benefit
33 Reserve accordingly. Effective July 1, 2014, the normal cost rate for the positions to
34 which this Part applies must be adjusted to the normal cost rate determined by the Maine
35 Public Employees Retirement System and its actuary to thereafter support the changed
36 benefits as they are earned, to be paid to the Maine Public Employees Retirement System
37 in the normal course of payment of retirement contributions.

38 **Sec. 13. Funding of the liability for the increased values of service**
39 **rendered before September 1, 2014.** A retirement service credit related to the
40 increased value of service rendered before September 1, 2014 in positions to which this
41 Act applies is not due to and may not be given to any employee until the full actuarial
42 cost of the total liability for the increased value of all of that service for all employees to
43 whom this Act applies has been paid. The amount required to pay the full actuarial cost
44 must be accumulated by the Maine Public Employees Retirement System through funds
45 provided to it for that purpose. Funds so provided must be held by the Maine Public

COMMITTEE AMENDMENT

1003

1 Employees Retirement System in the Corrections and Mental Health Workers Service
2 Retirement Benefit Reserve until the full actuarial cost is accumulated. Funds to be held
3 in the Corrections and Mental Health Workers Service Retirement Benefit Reserve to pay
4 this cost consist of the funds transferred to the Corrections and Mental Health Workers
5 Service Retirement Benefit Reserve under this Act, funds provided thereafter for the
6 same purpose and any investment earnings on the funds, reduced by amounts required to
7 pay the increased normal cost contributions in the current and following 5 years as
8 provided in section 12 of this Act and by any investment losses. Funds in the Corrections
9 and Mental Health Workers Service Retirement Benefit Reserve must be invested by the
10 Maine Public Employees Retirement System with the general assets of the state employee
11 and teacher retirement plan and those funds' share of investment earnings and losses must
12 be attributed to the Corrections and Mental Health Workers Service Retirement Benefit
13 Reserve.

14 The full actuarial cost of the liability for the increased value of service rendered
15 before September 1, 2014 in positions to which this Act applies is the amount of the
16 liability for the increased value, as calculated by the Maine Public Employees Retirement
17 System's actuary, increased by the interest cost that arises because the full cost of the
18 now-increased value of the service already rendered was not paid to the system at the
19 time the service was rendered. Interest costs continue to accrue until the full actuarial cost
20 of the increased value has been accumulated in the Corrections and Mental Health
21 Workers Service Retirement Benefit Reserve and is thereafter transferred on the books of
22 the Maine Public Employees Retirement System from the Corrections and Mental Health
23 Workers Service Retirement Benefit Reserve to the general assets of the state employee
24 and teacher retirement program. If an actuarially significant change in the amount of the
25 liability for the increased value, as determined by the Maine Public Employees
26 Retirement System and its actuary, occurs before the full actuarial cost has been
27 accumulated, the full actuarial cost must be increased or decreased accordingly.

28 **Sec. 14. Credit for service rendered before September 1, 2014;**
29 **contingency.** A retirement service credit related to the increased value of service
30 rendered before September 1, 2014 in positions to which this Act applies is not due to and
31 may not be given to any employee until the Executive Director of the Maine Public
32 Employees Retirement System certifies to the Governor, the Commissioner of
33 Corrections and the Commissioner of Health and Human Services that the amount of the
34 full actuarial cost has been accumulated in the Corrections and Mental Health Workers
35 Service Retirement Benefit Reserve and has been transferred on the books of the Maine
36 Public Employees Retirement System to the general assets of the state employee and
37 teacher retirement program, thereby funding the full actuarial costs of the liability for the
38 increased value of that service.

39 **Sec. 15. Contingent effective date; construction.** Those sections of this Act
40 that amend the Maine Revised Statutes, Title 5, section 17851-A, subsection 1,
41 paragraphs K, L and M and enact Title 5, section 17851-A, subsection 1, paragraph N and
42 amend Title 5, section 17851-A, subsections 2, 3, 4 and 5 do not take effect until the
43 contingency set out in section 14 of this Act is satisfied by the required certification. The
44 full actuarial costs arising from the implementation of those sections must be adjusted
45 upward, if necessary, based upon actuarial projections of the Maine Public Employees
46 Retirement System. Those sections of this Act that enact Title 5, section 17851-A,

AMS

COMMITTEE AMENDMENT "b" to S.P. 424, L.D. 1223

1 subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5
2 may not be construed to create any contractual claim or right or any other claim for any
3 state employee.'

4 **SUMMARY**

5 This amendment provides that the Corrections and Mental Health Workers Service
6 Retirement Benefit Reserve is held by the Maine Public Employees Retirement System
7 rather than in the General Fund. The amendment also provides for 1% contributions to
8 the reserve by affected classifications of corrections officers and mental health workers.
9 This amendment makes certain technical corrections and clarifications to the bill and
10 adjusts forward by one year all timeline dates in the bill.

11 **FISCAL NOTE REQUIRED**
12 (See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 1223

LR 912(04)

An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers

Fiscal Note for Bill as Amended by Committee Amendment " *B* "

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Future biennium cost increase - General Fund
Future biennium cost increase - Federal Expenditures Fund
Future biennium cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Adding mental health workers to the 1998 Special Plan and providing that all service for corrections and mental health workers is to be considered as service earned in the 1998 Special Plan, regardless of when that service was earned will increase the normal cost component of the employer retirement rate resulting in increased employer contributions to the Maine State Retirement System and will increase the unfunded liability of the Retirement System.

Based on calculations performed by the System's actuary, the unfunded liability cost associated with the plan changes as of June 30, 2007 totals \$31,040,512, of which \$12,669,713 is attributable to Mental Health Workers and \$18,370,799 is attributable to Corrections employees. The additional normal cost dollars for Mental Health Workers as a result of the increase in the rate from 5.75% to 6.50% is estimated to be \$155,000 for fiscal year 2008-09. Because Correction employees already participate in the 1998 Special Plan, there is no increase in the normal cost for that group of employees.

In order to reserve funds to meet the full actuarial costs of the provisions of this bill, including the normal cost rates for the 6 years following the effective date of the legislation, the bill creates the Corrections and Mental Health Workers Service Retirement Benefit Reserve and proposes to divert funds from the unappropriated surplus of the General Fund at the end of each fiscal year beginning in fiscal year 2008-09 that would otherwise be transferred to the Retirement Allowance Fund pursuant to 5 MRSA §1536, sub-§1(B). The bill also states that the plan changes proposed in this bill do not become effective until full funding is available as certified by the Maine State Retirement System.

The cost of this legislation, including the loss of savings as a result of diverting funds from the Retirement Allowance Fund that otherwise would be applied to the unfunded liability can not be determined at this time. Information provided by the Maine State Retirement System indicates that the transfer of \$13.1 million from the unappropriated surplus at the end of fiscal year 2004-05 resulted in cumulative savings of approximately \$31.5 million over the 21

year amortization schedule.

It is also unknown whether there will be sufficient funds available to transfer to the retirement benefit reserve to fully fund this provision by fiscal year 2013-14 or to fund the normal cost component on an annual basis. The General Fund has had year-end surpluses over the past 5 consecutive fiscal years which allowed for a total of \$63.7 million to be transferred to the Retirement Allowance Fund, with \$17.5 million being transferred at the end of fiscal year 2005-06 and, as stated above, \$13.1 million at the end of fiscal year 2004-05. Although fiscal year 2006-07 ended with a General Fund surplus of \$19.1 million, no funds were available for transfer to the Retirement Allowance Fund. Public Law 2007, Chapter 1, Part L provided for the transfer of up to \$82,000,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Medical Care - Payments to Providers account as the first priority after the transfers required pursuant to 5 MRSA §1507 and §1511 and before the transfers required pursuant to 5 MRSA, §1536.