

MAINE STATE LEGISLATURE

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Legislative Document

No. 1223

S.P. 424

March 8, 2007

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

Reported by Senator STRIMLING of Cumberland for the Commission To Study
Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers
pursuant to Resolve 2005, chapter 181.

Reference to the Committee on Labor suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

2 **Sec. 1. 5 MRSA §17851-A, sub-§1, ¶K**, as amended by PL 2001, c. 409, §1, is
3 further amended to read:

4 K. The State Fire Marshal or a state fire marshal investigator or state fire marshal
5 inspector in the employment of the Department of Public Safety on January 1, 2000
6 or hired thereafter; ~~and~~

7 **Sec. 2. 5 MRSA §17851-A, sub-§1, ¶L**, as amended by PL 2001, c. 646, §1, is
8 further amended to read:

9 L. Oil and hazardous materials emergency response workers in the employment of
10 the Department of Environmental Protection, Division of Response Services who
11 participate in a standby rotation on January 1, 2002 or are hired thereafter; ~~and~~

12 **Sec. 3. 5 MRSA §17851-A, sub-§1, ¶M**, as enacted by PL 2001, c. 646, §2, is
13 amended to read:

14 M. Capital security officers in the employment of the Department of Public Safety,
15 Bureau of Capital Security on July 1, 2002 or hired thereafter; ~~and~~

16 **Sec. 4. 5 MRSA §17851-A, sub-§1, ¶N** is enacted to read:

17 N. Employees of the Department of Health and Human Services as of January 1,
18 2000 or hired thereafter who are employed in mental health institutions and whose
19 duties involve providing direct care to residents or patients of those institutions or to
20 wards of the State. For purposes of this paragraph, "direct care" means services or
21 treatment essential to everyday security, health and well-being.

22 **Sec. 5. 5 MRSA §17851-A, sub-§2**, as repealed and replaced by PL 2003, c. 510,
23 Pt. D, §1 and affected by §§6 and 7, is amended to read:

24 **2. Qualification for benefits.** A member employed in any one or a combination of
25 the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002
26 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for
27 employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for
28 employees identified in subsection 1, paragraphs ~~I to~~ J and K; after June 30, 2002 for
29 employees identified in subsection 1, paragraph M; and any employee identified in
30 subsection 1, ~~paragraph~~ paragraphs L, and N qualifies for a service retirement benefit if
31 that member either:

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

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

1 **Sec. 6. 5 MRSA §17851-A, sub-§3, ¶A**, as repealed and replaced by PL 2003, c.
2 510, Pt. D, §2 and affected by §§6 and 7, is amended to read:

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

5 (1) Service credit purchased by repayment of an earlier refund of accumulated
6 contributions following termination of service is included only to the extent that
7 time to which the refund relates was served after June 30, 1998 and before
8 September 1, 2002 for employees identified in subsection 1, paragraphs A and B;
9 after June 30, 1998 for employees identified in subsection 1, paragraphs C to H;
10 after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~
11 J and K; and after June 30, 2002 for employees identified in subsection 1,
12 paragraph M, in any one or a combination of the capacities specified in
13 subsection 1. Service credit may be purchased for service by an employee
14 identified in subsection 1, ~~paragraph~~ paragraphs I, L and N regardless of when
15 performed; and

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

18 **Sec. 7. 5 MRSA §17851-A, sub-§4, ¶A**, as repealed and replaced by PL 2003, c.
19 510, Pt. D, §3 and affected by §§6 and 7, is amended to read:

20 A. If all of the member's creditable service in any one or a combination of the
21 capacities specified in subsection 1 was earned after June 30, 1998 and before
22 September 1, 2002 for employees identified in subsection 1, paragraphs A and B;
23 after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after
24 December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~ J and K;
25 after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~
26 after June 30, 2002 for employees identified in subsection 1, paragraph M; and
27 regardless of when earned for employees identified in subsection 1, paragraphs I and
28 N; if service credit was purchased by repayment of an earlier refund of accumulated
29 contributions for service in any one or a combination of the capacities specified in
30 subsection 1 after June 30, 1998 and before September 1, 2002 for employees
31 identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees
32 identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees
33 identified in subsection 1, paragraphs ~~I to~~ J and K; after December 31, 2001 for
34 employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for
35 employees identified in subsection 1, paragraph M; and regardless of when purchased
36 for employees identified in subsection 1, paragraphs I and N; or if service credit was
37 purchased by other than the repayment of an earlier refund and eligibility to make the
38 purchase of the service credit, including, but not limited to, service credit for military
39 service, was achieved after June 30, 1998 and before September 1, 2002 for
40 employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for
41 employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for
42 employees identified in subsection 1, paragraphs ~~I to~~ J and K; after December 31,
43 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002
44 for employees identified in subsection 1, paragraph M; and regardless of when earned

1 for employees identified in subsection 1, paragraphs I and N, the benefit must be
2 computed as provided in section 17852, subsection 1, paragraph A.

3 (1) If the member had 10 years of creditable service on July 1, 1993, the benefit
4 under subsection 2, paragraph B must be reduced as provided in section 17852,
5 subsection 3, paragraphs A and B.

6 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,
7 the benefit under subsection 2, paragraph B must be reduced by 6% for each year
8 that the member's age precedes 55 years of age.

9 **Sec. 8. 5 MRSA §17851-A, sub-§4, ¶E**, as enacted by PL 2001, c. 409, §5, is
10 amended to read:

11 E. The service retirement benefit of a member to whom subsection 1, paragraph L, L
12 or N applies and who qualifies for service retirement benefits under subsection 2
13 must be computed under section 17852, subsection 1, paragraph A on the basis of all
14 of the member's creditable service in the capacity specified in subsection 1, paragraph
15 L, L or N, as appropriate, regardless of when that creditable service was earned,
16 except that for a member qualifying under subsection 2, paragraph B:

17 (1) If the member had 10 years of service on July 1, 1993, the benefit must be
18 reduced as provided in section 17852, subsection 3, paragraphs A and B for each
19 year the member's age precedes 55 years of age; or

20 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,
21 the benefit must be reduced by 6% for each year that the member's age precedes
22 55 years of age.

23 **Sec. 9. 5 MRSA §17851-A, sub-§5**, as repealed and replaced by PL 2003, c. 510,
24 Pt. D, §5 and affected by §§6 and 7, is amended to read:

25 **5. Contributions.** Notwithstanding any other provision of subchapter 3, after June
26 30, 1998 and before September 1, 2002 for employees identified in subsection 1,
27 paragraphs A and B; after June 30, 1998 for employees identified in subsection 1,
28 paragraphs C to H; after December 31, 1999 for employees identified in subsection 1,
29 paragraphs I to K; after December 31, 2001 for employees identified in subsection 1,
30 paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph
31 M; and for employees identified in subsection 1, paragraph N, a member in the capacities
32 specified in subsection 1 must contribute to the retirement system or have pick-up
33 contributions made at the rate of 8.65% of earnable compensation until the member has
34 completed 25 years of creditable service as provided in this section and at the rate of
35 7.65% thereafter.

36 **Sec. 10. Corrections and Mental Health Workers Service Retirement**
37 **Benefit Reserve; established.** Notwithstanding the Maine Revised Statutes, Title 5,
38 section 1536, there is established in the General Fund the Corrections and Mental Health
39 Workers Service Retirement Benefit Reserve for the purpose of accumulating funds that
40 would otherwise be payable to the Retirement Allowance Fund. The Corrections and
41 Mental Health Workers Service Retirement Benefit Reserve must be used to reserve
42 funds that, at the sole discretion of the Legislature, may be appropriated to meet the full

1 actuarial costs arising from the implementation of those sections of this Act that enact
2 Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A,
3 subsections 2, 3, 4 and 5, including normal cost rates for the 6 years following the
4 effective date of this Act. Any funds remaining in the Corrections and Mental Health
5 Workers Service Retirement Benefit Reserve at the end of each fiscal year must be
6 carried forward to be used for the same purposes. Expenditures may not be made from
7 this reserve and appropriations may not be considered to be made to the Retirement
8 Allowance Fund or the Maine State Retirement System from this reserve without a
9 further authorization of the Legislature.

10 **Sec. 11. Funding of Corrections and Mental Health Workers Service**
11 **Retirement Benefit Reserve.** Notwithstanding the provisions of the Maine Revised
12 Statutes, Title 5, section 1536, the following provisions control the transfer of funds that
13 would otherwise qualify for transfer to the Retirement Allowance Fund from
14 unappropriated surplus of the General Fund. Any funds that would otherwise qualify for
15 transfer to the Retirement Allowance Fund under Title 5, section 1536 must instead be
16 transferred to the Corrections and Mental Health Workers Service Retirement Benefit
17 Reserve established in this Act up to the amount certified by the Maine State Retirement
18 System as the full actuarial cost of implementing those sections of this Act that enact
19 Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A,
20 subsections 2, 3, 4 and 5, including normal cost rates for the 6 years following the
21 effective date of this Act. Any remaining funds not needed to meet the requirements
22 described in this section must be transferred to the Retirement Allowance Fund for the
23 purposes described in Title 5, section 1536.

24 **Sec. 12. Funding of benefit changes that are effective prospectively after**
25 **the effective date of this Act and payment of the related normal cost increase**
26 **in the current and following five years.** With respect to an employee's service after
27 September 1, 2007 in a position to which this Act applies, the increase in normal cost
28 contributions resulting from the increased normal cost rate that is necessary to support the
29 changed benefits as they are earned must be estimated by the Maine State Retirement
30 System based on the total payroll for the positions to which this Act applies as of the pay
31 date closest to August 1, 2007. The amount of the increased normal cost contributions
32 must be paid from the funds transferred to the Corrections and Mental Health Workers
33 Service Retirement Benefit Reserve under this Act. The Maine State Retirement System
34 shall pay these increased contributions not later than September 1st of each year through
35 September 1, 2012, each as a single lump sum, reducing the funds held in the Corrections
36 and Mental Health Workers Service Retirement Benefit Reserve by the amount required
37 to fully pay the estimated amount of the increased contributions for the remainder of each
38 respective year and transferring that amount on the books of the system to the general
39 assets of the state employee and teacher retirement plan. After the last payroll of each of
40 the current and following 5 years is paid, the Maine State Retirement System shall
41 reconcile, for each year, the estimated with the required actual amount of the increased
42 contributions, adjusting the reduction of the Corrections and Mental Health Workers
43 Service Retirement Benefit Reserve accordingly. Effective July 1, 2013, the normal cost
44 rate for the positions to which this Part applies must be adjusted to the normal cost rate
45 determined by the Maine State Retirement System and its actuary to thereafter support

1 the changed benefits as they are earned, to be paid to the Maine State Retirement System
2 in the normal course of payment of retirement contributions.

3 **Sec. 13. Funding of the liability for the increased values of service**
4 **rendered between August 31, 1984 and September 1, 2013.** A retirement service
5 credit related to the increased value of service rendered between August 31, 1984 and
6 September 1, 2013 in positions to which this Act applies is not due to and may not be
7 given to any employee until the full actuarial cost of the total liability for the increased
8 value of all of that service for all employees to whom this Act applies has been paid. The
9 amount required to pay the full actuarial cost must be accumulated by the Maine State
10 Retirement System through funds provided to it for that purpose. Funds so provided must
11 be held by the Maine State Retirement System in the Corrections and Mental Health
12 Workers Service Retirement Benefit Reserve until the full actuarial cost is accumulated.
13 Funds to be held in the Corrections and Mental Health Workers Service Retirement
14 Benefit Reserve to pay this cost consist of the funds transferred to the Corrections and
15 Mental Health Workers Service Retirement Benefit Reserve under this Act, funds
16 provided thereafter for the same purpose and any investment earnings on the funds,
17 reduced by amounts required to pay the increased normal cost contributions in the current
18 and following 5 years as provided in section 12 of this Act and by any investment losses.
19 Funds in the Corrections and Mental Health Workers Service Retirement Benefit Reserve
20 must be invested by the Maine State Retirement System with the general assets of the
21 state employee and teacher retirement plan and those funds' share of investment earnings
22 and losses must be attributed to the Corrections and Mental Health Workers Service
23 Retirement Benefit Reserve.

24 The full actuarial cost of the liability for the increased value of service rendered
25 between August 31, 1984 and September 1, 2013 in positions to which this Act applies is
26 the amount of the liability for the increased value, as calculated by the Maine State
27 Retirement System's actuary, increased by the interest cost that arises because the full
28 cost of the now-increased value of the service already rendered was not paid to the
29 system at the time the service was rendered. Interest costs continue to accrue until the full
30 actuarial cost of the increased value has been accumulated in the Corrections and Mental
31 Health Workers Service Retirement Benefit Reserve and is thereafter transferred on the
32 books of the Maine State Retirement System from the Corrections and Mental Health
33 Workers Service Retirement Benefit Reserve to the general assets of the state employee
34 and teacher retirement plan. If an actuarially significant change in the amount of the
35 liability for the increased value, as determined by the Maine State Retirement System and
36 its actuary, occurs before the full actuarial cost has been accumulated, the full actuarial
37 cost must be increased or decreased accordingly.

38 **Sec. 14. Credit for service rendered between August 31, 1984 and**
39 **September 1, 2013; contingency.** A retirement service credit related to the increased
40 value of service rendered between August 31, 1984 and September 1, 2013 in positions to
41 which this Act applies is not due to and may not be given to any employee until the
42 Executive Director of the Maine State Retirement System certifies to the Governor, the
43 Commissioner of Corrections and the Commissioner of Health and Human Services that
44 the amount of the full actuarial cost has been accumulated in the Corrections and Mental
45 Health Workers Service Retirement Benefit Reserve and has been transferred on the

1 books of the Maine State Retirement System to the general assets of the state employee
2 and teacher retirement plan, thereby funding the full actuarial costs of the liability for the
3 increased value of that service.

4 **Sec. 15. Contingent effective date; construction.** Those sections of this Act
5 that enact the Maine Revised Statutes, Title 5, section 17851-A, subsection 1, paragraph
6 N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5 do not take effect unless
7 the Legislature directs payment to the Maine State Retirement System of the full actuarial
8 costs of implementing those sections. The full actuarial costs of those sections must be
9 adjusted upward, if necessary, based upon actuarial projections of the Maine State
10 Retirement System. Those sections of this Act that enact Title 5, section 17851-A,
11 subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5
12 may not be construed to create any contractual claim or right or any other claim for any
13 state employee.

14 **SUMMARY**

15 Contingent upon the full actuarial costs having been accumulated in a reserve of the
16 Maine State Retirement System, this bill adds mental health workers to the 1998 Special
17 Plan for certain Maine State Retirement System members and requires that service
18 retirement benefits for corrections and mental health workers included in the 1998
19 Special Plan be computed on the basis of all the member's creditable service, regardless
20 of when that service was earned. The bill provides for funding the full actuarial costs of
21 new corrections and mental health worker retirement benefits by creating a reserve and
22 transferring funds to it that would otherwise qualify for transfer to the Retirement
23 Allowance Fund from unappropriated surplus of the General Fund. Transfers continue
24 until the accumulation of funds to cover the full actuarial costs, including normal costs
25 for 6 years, is complete. Under the bill, retirement service credit may not be given and
26 increased benefits may not be paid until the full actuarial costs of the liability for the
27 increased value of that service has been funded.