

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1738

H.P. 1221

House of Representatives, March 26, 2007

### **An Act To Amend the Laws Relating to the Maine State Retirement System**

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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.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CLARK of Millinocket.  
Cosponsored by Senator STRIMLING of Cumberland and  
Representatives: BURNS of Berwick, CRESSEY of Cornish, DRISCOLL of Westbrook,  
JACKSON of Allagash, THOMAS of Ripley, TUTTLE of Sanford, Senator: SULLIVAN of  
York.

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

2 **Sec. 1. 3 MRSA §752**, as enacted by PL 1985, c. 507, §1, is repealed.

3 **Sec. 2. 3 MRSA §801, sub-§1**, as amended by PL 2005, c. 516, §1, is further  
4 amended to read:

5 **1. Membership mandatory.** Every Legislator serving in the Legislature on or after  
6 December 3, 1986 is a member of the Maine Legislative Retirement System, except that  
7 any Legislator who is a member of the Maine State Retirement System on December 2,  
8 1986 may continue to be a member of that system instead of becoming a member of the  
9 Maine Legislative Retirement System, and any Legislator who is a public school teacher  
10 or an employee of the Maine Community College System on leave of absence for the  
11 purpose of serving in the Legislature continues to be a member of the Maine State  
12 Retirement System and to have contributions deducted from the member's legislative  
13 earnable compensation as provided by Title 5, section 17701. A Legislator who  
14 terminates employment from a position requiring membership in the Maine State  
15 Retirement System no longer contributes to the Maine State Retirement System and, if  
16 qualified, is eligible to become a benefit recipient under Title 5, section 17804. Upon  
17 such termination, the Legislator becomes a member of the Maine Legislative Retirement  
18 System. ~~No~~ Except as provided in section 802, subsection 4, paragraph A, creditable  
19 service granted under the Maine State Retirement System may not be transferred to the  
20 Maine Legislative Retirement System. A member ceases to be a member when the  
21 member withdraws the member's contributions, becomes a beneficiary as a result of the  
22 member's own retirement or dies.

23 **Sec. 3. 3 MRSA §802, sub-§4, ¶A**, as enacted by PL 1985, c. 507, §1, is  
24 amended to read:

25 A. Any member who has not withdrawn ~~his~~ the member's accumulated  
26 contributions with the Maine State Retirement System and is not a benefit recipient  
27 under Title 5, section 17804 may, upon becoming a Legislator, have ~~his~~ the member's  
28 Maine State Retirement System contributions and membership service transferred to  
29 ~~his~~ the member's account with the Maine Legislative Retirement System and all  
30 creditable service resulting from ~~his~~ membership in the Maine State Retirement  
31 System ~~shall be~~ is creditable service in the Maine Legislative Retirement System.

32 All funds in the Maine State Retirement System contributed by the State on account  
33 of the member's employment ~~shall~~ must be transferred to the Maine Legislative  
34 Retirement System and ~~shall~~ must be used to liquidate the liability incurred by reason  
35 of ~~his~~ the member's previous employment. The State shall make ~~such~~ contributions,  
36 from time to time, as may be necessary to provide the benefits under the Maine  
37 Legislative Retirement System for the member ~~as that~~ that have accrued to ~~him~~ the  
38 member by reason of ~~his~~ the member's previous employment and may accrue to ~~him~~  
39 the member by reason of ~~his~~ membership in the Maine State Retirement System.

40 **Sec. 4. 4 MRSA §807, sub-§3, ¶M**, as amended by PL 2003, c. 278, §2, is  
41 further amended to read:

1 M. A law enforcement officer, as defined in Title 29-A, section 101, subsection 30,  
2 who is not an attorney but who is representing the State in the prosecution of a traffic  
3 infraction, as defined in Title 29-A, section 101, subsection 85, when representation  
4 in that matter has been approved by the prosecuting attorney; ~~or~~

5 **Sec. 5. 4 MRSA §807, sub-§3, ¶N**, as enacted by PL 2003, c. 278, §3, is  
6 amended to read:

7 N. A person who is not an attorney, but is representing the State under section 807-  
8 A; or

9 **Sec. 6. 4 MRSA §807, sub-§3, ¶O** is enacted to read:

10 O. A person who is not an attorney, but who is representing a party in any hearing,  
11 action or proceeding before the Maine State Retirement System.

12 **Sec. 7. 4 MRSA §1252**, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is  
13 repealed.

14 **Sec. 8. 4 MRSA §1358, sub-§1, ¶B**, as repealed and replaced by PL 1985, c.  
15 693, §11, is amended to read:

16 B. Whenever the annual percentage change in the Consumer Price Index from July  
17 1st to June 30th exceeds 4%, the board shall adjust allowances as set out in paragraph  
18 A and shall report the adjustment and the actual increase or decrease in the Consumer  
19 Price Index to the Legislature ~~during~~ by February 1st of the following year.

20 **Sec. 9. 4 MRSA §1361, sub-§1**, as amended by PL 1999, c. 744, §6 and as  
21 affected by §17, is further amended to read:

22 **1. Election of benefit for different beneficiary.** The recipient may elect to have the  
23 reduced retirement benefit paid under the same option to a different beneficiary except  
24 when the former spouse is named as retirement beneficiary at the time the divorce is  
25 granted, in which case the election may be made only under the following conditions:

26 A. The spouse or former spouse who was originally named as retirement  
27 beneficiary must have been the sole beneficiary of the reduced retirement benefit  
28 under section 1357, subsection 2, paragraph B, C, D or E; and

29 B. The recipient and the spouse or former spouse who was originally named  
30 retirement beneficiary must agree to the change of beneficiary. Prior to this  
31 agreement, the executive director shall ensure that the spouse or former spouse who  
32 was originally named as retirement beneficiary has been counseled by an employee  
33 of the retirement system regarding the financial effect of giving up rights as a  
34 beneficiary and has signed a statement that the information has been received and  
35 understood.

36 **Sec. 10. 5 MRSA §17103, sub-§7**, as amended by PL 1993, c. 410, Pt. L, §18, is  
37 further amended to read:

1       **7. Administrative and financial decisions.** The board shall make the final decision  
2 on all matters pertaining to administration, actuarial assumptions, actuarial  
3 recommendations and the reserves and the investments of the retirement system and  
4 direct cash receipts as it considers appropriate, notwithstanding section 131.  
5 Notwithstanding any other provision of law, the board, as the employer of the staff of the  
6 retirement system and as the executive body, shall establish policies and make decisions  
7 on matters pertaining to the administration and operations of the Maine State Retirement  
8 System as an independent agency, including, but not limited to, personnel and payroll,  
9 accounting and financial matters, acquisition and disposition of capital assets and data  
10 processing. The board may delegate these duties and responsibilities as it considers  
11 appropriate. Board policies regarding the operation of its administrative offices must be  
12 consistent with ~~the applicable state and federal health and safety requirements and~~  
13 ~~programs of the Bureau of General Services. The Department of Administrative and~~  
14 ~~Financial Services shall provide survivor benefit payroll, retirement payroll and~~  
15 ~~contribution refund services and, at their option, may provide other services under these~~  
16 ~~chapters to the Maine State Retirement System at the request of the board. When the~~  
17 ~~board utilizes the services under these chapters, it shall comply with the requirements and~~  
18 ~~procedures of those services.~~

19       A. If the decision is related to or results in rules, rules must be adopted as provided  
20 in subsection 4.

21       B. If the decision determines the rights, credits or privileges of an individual  
22 member or group of members, the determination is considered an adjudicatory  
23 proceeding under chapter 375, subchapter ~~IV~~ 4 and may be made only after the  
24 giving of notice as required in that subchapter and after hearing if a hearing is  
25 requested by a person whose rights, credits or privileges are to be determined. A  
26 hearing must be conducted in accordance with chapter 375.

27       **Sec. 11. 5 MRSA §17105, sub-§1, ¶G,** as enacted by PL 1995, c. 368, Pt. G, §5,  
28 is repealed.

29       **Sec. 12. 5 MRSA §17152, sub-§4,** as amended by PL 1989, c. 409, §§3 and 12,  
30 is repealed.

31       **Sec. 13. 5 MRSA §17152, sub-§5,** as amended by PL 1995, c. 368, Pt. G, §6, is  
32 repealed.

33       **Sec. 14. 5 MRSA §17152, sub-§6,** as amended by PL 1995, c. 368, Pt. G, §6, is  
34 repealed.

35       **Sec. 15. 5 MRSA §17152, sub-§7,** as enacted by PL 1989, c. 409, §§3 and 12, is  
36 repealed.

37       **Sec. 16. 5 MRSA §17154, sub-§1,** as enacted by PL 1985, c. 801, §§5 and 7, is  
38 repealed.

39       **Sec. 17. 5 MRSA §17154, sub-§4,** as enacted by PL 1985, c. 801, §§5 and 7, is  
40 repealed.

1       **Sec. 18. 5 MRSA §17157, sub-§2**, as amended by PL 1989, c. 95, §2, is repealed.

2       **Sec. 19. 5 MRSA §17159, sub-§1, ¶A**, as amended by PL 1999, c. 731, Pt. CC,  
3 §2, is further amended to read:

4       A. "Early retirement" means retirement before normal retirement age with a  
5 reduced retirement benefit as provided by section 17851-A, subsection 4, section  
6 17852, subsection 3 or 3-A or subsection 10, paragraph C or C-1; section 17857,  
7 subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3.

8       **Sec. 20. 5 MRSA §17251**, as amended by PL 1989, c. 409, §§4 and 12, is further  
9 amended to read:

10       **§17251. Establishment**

11       The Retirement Allowance Fund is established in which ~~shall~~ must be accumulated  
12 all reserves required for the payment of benefits under this Part, other than reserves in the  
13 Members' Contribution Fund, ~~the Survivors' Benefit Fund and the Disability Retirement~~  
14 ~~Benefit Fund.~~

15       **Sec. 21. 5 MRSA §17253, sub-§1**, as amended by PL 1987, c. 739, §§8 and 48,  
16 is further amended to read:

17       **1. Computation.** The employer contribution rate ~~shall be~~ is determined as the  
18 percentage of the members' earnable compensation payable during the members' periods  
19 of membership required to provide the difference between the total liabilities for  
20 retirement allowances, survivors' benefits and disability retirement benefits not provided  
21 by the members' accumulated contributions and the amount of the assets in the  
22 Retirement Allowance Fund.

23       **Sec. 22. 5 MRSA c. 421, sub-c. 4, art. 5**, as amended, is repealed.

24       **Sec. 23. 5 MRSA c. 421, sub-c. 4, art. 6**, as amended, is repealed.

25       **Sec. 24. 5 MRSA c. 421, sub-c. 4, art. 7**, as amended, is repealed.

26       **Sec. 25. 5 MRSA c. 421, sub-c. 4, art. 8**, as amended, is repealed.

27       **Sec. 26. 5 MRSA §17808**, as enacted by PL 1985, c. 801, §§5 and 7, is amended  
28 to read:

29       **§17808. Payment from certain funds**

30       All benefits payable under this chapter ~~shall~~ must be paid from the Retirement  
31 Allowance Fund, except those payable from the Members' Contribution Fund ~~and the~~  
32 ~~Survivors' Benefit Fund~~ or as specifically provided in this chapter.

33       **Sec. 27. 5 MRSA §17933, sub-§2**, as enacted by PL 1989, c. 409, §§8 and 12, is  
34 amended to read:

1           **2. Cost of benefits.** The cost of benefits based upon service credits earned before  
2 and during disability shall must be charged to the ~~Disability Retirement Benefit~~  
3 Retirement Allowance Fund. The cost of benefits based upon service credits earned after  
4 becoming reemployed shall must be charged to the account of the employer through  
5 whom the service credits were earned.

6           **Sec. 28. 5 MRSA §17953, sub-§6**, as amended by PL 1991, c. 469, §2, is further  
7 amended to read:

8           **6. Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of  
9 the deceased qualifying member's accumulated contributions in the Members'  
10 Contribution Fund is transferred to the ~~Survivors' Benefit Fund~~ and the amount of the  
11 ~~qualifying member's accumulated contributions in the Retirement Allowance Fund~~ is  
12 transferred to the Survivors' Benefit Retirement Allowance Fund.

13           **Sec. 29. 5 MRSA §18360, sub-§2, ¶E**, as amended by PL 2001, c. 114, §5, is  
14 further amended to read:

15           E. Except as provided in paragraph I, a member who served in the armed forces  
16 during any federally recognized period of conflict, ~~as defined in Title 37 B, section~~  
17 ~~504, subsection 4, paragraph A-1, subparagraph (3)~~, is entitled to service credit under  
18 this subsection. For purposes of this paragraph, "federally recognized period of  
19 conflict" means World War I, April 6, 1917 to November 11, 1918 or to March 31,  
20 1920 if service was in Russia; World War II, December 7, 1941 to December 31,  
21 1946; the Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War,  
22 August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and  
23 ending on May 7, 1975 in the case of a veteran who served in the Republic of  
24 Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that  
25 the United States Government recognizes as the end of the Persian Gulf War.

26           **Sec. 30. 5 MRSA §18407, sub-§4, ¶B**, as enacted by PL 1985, c. 801, §§ 5 and  
27 7, is amended to read:

28           B. Whenever the annual percentage change in the Consumer Price Index from July  
29 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the  
30 retirement benefits are necessary to reflect an annual increase or decrease of 4% and  
31 shall report that adjustment and the actual increase or decrease in the Consumer Price  
32 Index to the Legislature ~~during the month of~~ by February 1st of the following year.

33           **Sec. 31. 5 MRSA §18409**, as enacted by PL 1985, c. 801, §§5 and 7, is amended  
34 to read:

35           **§18409. Payment from certain funds**

36           All benefits payable under this chapter shall must be paid from the Retirement  
37 Allowance Fund, except those payable from the Members' Contribution Fund ~~and the~~  
38 ~~Survivors' Benefit Fund~~ or as specifically provided in this chapter.

39           **Sec. 32. 5 MRSA §18533, sub-§2**, as enacted by PL 1989, c. 409, §§11 and 12, is  
40 amended to read:

1           **2. Cost of benefits.** The cost of benefits based upon service credits earned before  
2 and during disability ~~shall~~ must be charged to the ~~Disability Retirement Benefit~~  
3 Retirement Allowance Fund. The cost of benefits based upon service credits earned after  
4 becoming reemployed ~~shall~~ must be charged to the account of the employer through  
5 whom the service credits were earned.

6           **Sec. 33. 5 MRSA §18553, sub-§6**, as amended by PL 1991, c. 469, §5, is further  
7 amended to read:

8           **6. Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of  
9 the deceased qualifying member's accumulated contributions in the Members'  
10 Contribution Fund is transferred to the ~~Survivors' Benefit Fund~~ and the amount of the  
11 ~~qualifying member's accumulated contributions in the Retirement Allowance Fund~~ is  
12 ~~transferred to the Survivors' Benefit~~ Retirement Allowance Fund.

13           **Sec. 34. 5 MRSA §18557, sub-§6**, as enacted by PL 1985, c. 801, §§ 5 and 7, is  
14 amended to read:

15           **6. Member contribution.** A participating local district may require each of its  
16 members to make a contribution, not to exceed 1/4 of 1% of earnable compensation, ~~to~~  
17 ~~the Survivors' Benefit Fund~~, as long as ~~he~~ the member is employed.

18           **Sec. 35. 5 MRSA §18557, sub-§7**, as enacted by PL 1985, c. 801, §§ 5 and 7, is  
19 amended to read:

20           **7. Payment.** All survivor benefit contributions by participating local districts ~~which~~  
21 that have elected survivor benefits and all contributions by members of those districts  
22 ~~shall~~ must be paid into the ~~Survivors' Benefit Retirement Allowance~~ Fund.

23           **Sec. 36. 5 MRSA §18802-A, sub-§1**, as enacted by PL 1997, c. 12, §1 and as  
24 affected by §2, is amended to read:

25           **1. Composition; designation.** The Participating Local District Advisory  
26 Committee, referred to in this chapter as ~~the "advisory "~~ "the advisory committee," is  
27 composed of the following 12 members:

28           A. Five voting members who are members of labor organizations that represent  
29 participating local district employees, ~~appointed by the Governor after being~~  
30 ~~nominated~~ duly designated by their respective labor organizations as follows:

31                   (1) One member ~~nominated~~ duly designated by the Maine Education  
32 Association;

33                   (2) One member ~~nominated~~ duly designated by the American Federation of  
34 State, County and Municipal Employees;

35                   (3) One member ~~nominated~~ duly designated by the Service Employees  
36 International Union;

37                   (4) One member ~~nominated~~ duly designated by the International Association of  
38 Fire Fighters; and



- 1 (5) One member ~~nominated~~ duly designated by the International Brotherhood of  
2 Teamsters, Chauffeurs, Warehousemen and Helpers of America;
- 3 B. Five voting members who represent participating local districts ~~appointed by the~~  
4 ~~Governor after being nominated~~ duly designated as follows:
- 5 (1) Three members ~~nominated~~ duly designated by the Maine Municipal  
6 Association; and
- 7 (2) Two members ~~nominated~~ duly designated by the Maine School Management  
8 Association;
- 9 C. One nonvoting member ~~appointed~~ duly designated by the Governor; and
- 10 D. The executive director or the executive director's designee, to serve as an ex  
11 officio nonvoting member.

12 **Sec. 37. 5 MRSA §18802-A, sub-§4**, as enacted by PL 1997, c. 12, §1 and as  
13 affected by §2, is amended to read:

14 **4. Term.** The terms of the members are as follows.

- 15 A. Each member, ~~except the initial appointees, shall serve~~ serves a term of 5 years.
- 16 B. A member shall continue to serve after the expiration of that member's term until  
17 a qualified successor is ~~appointed~~ designated. The member's continuation as a  
18 member does not change the expiration of that member's term.
- 19 C. The term of a member ~~appointed~~ designated to succeed a member whose term  
20 has expired expires 5 years after the expiration date of the term of the previous  
21 member, regardless of the effective date of the new ~~appointment~~ designation. There  
22 is no limit to the number of terms to which a member may be ~~appointed~~ designated.
- 23 D. The ~~appointing~~ designating authority shall ~~appoint~~ designate a person to fill a  
24 vacancy caused by death, resignation or ineligibility within 60 days. This  
25 ~~appointment~~ designation is for the unexpired portion of the term and must be made  
26 from a ~~nomination~~ designation provided by the organization the former member  
27 represented, as provided by subsection 1. With the agreement of the member being  
28 replaced and of the ~~nominating and appointing authorities~~ designating authority, the  
29 member being replaced ~~shall serve~~ serves until a replacement is ~~appointed~~  
30 designated. Otherwise, a vacancy exists until a replacement is ~~appointed~~ designated.
- 31 E. The terms of the initial appointments are as follows.
- 32 (1) Members who represent participating local district employees are appointed  
33 by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.
- 34 (2) Members who represent participating local districts are appointed by the  
35 Governor, one each, to terms of 1, 2, 3, 4 and 5 years.
- 36 F. A member is considered to have resigned if:
- 37 (1) The member severs the affiliation with the organization that ~~nominated~~  
38 designated the member in accordance with subsection 1; or

