

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 292

H.P. 232

House of Representatives, February 2, 2009

An Act To Restore Equity to the Maine Public Employees Retirement System

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SCHATZ of Blue Hill.
Cosponsored by Senator DAMON of Hancock and
Representatives: CLARK of Millinocket, GIFFORD of Lincoln, HOGAN of Old Orchard
Beach, SUTHERLAND of Chapman, THERIAULT of Madawaska.

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

2 **PART A**

3 **Sec. A-1. 3 MRSA §851, sub-§2-A**, as amended by PL 2007, c. 491, §26, is
4 further amended to read:

5 **2-A. Early retirement; employed under program on June 30, 1993, but less than**
6 **10 years creditable service on July 1, 1993.** Any member, whether or not in service at
7 retirement, who on June 30, 1993 was employed in a position that is covered under the
8 State Employee and Teacher Retirement Program, the Legislative Retirement Program or
9 the Judicial Retirement Program but who on July 1, 1993 had less than 10 years of
10 creditable service and who has completed at least 25 years of creditable service may retire
11 any time before the member's 62nd birthday. Creditable service as a member of any other
12 retirement program of the Maine Public Employees Retirement System may be combined
13 with creditable service as a member of the Legislative Retirement Program for the
14 purpose of determining the completion of 25 years of creditable service. The retirement
15 allowance is determined in accordance with section 852, except that it is reduced by ~~6%~~
16 3% for each year that the member's age precedes age 62.

17 **Sec. A-2. 3 MRSA §851, sub-§2-C** is enacted to read:

18 **2-C. Early retirement; not employed under program on June 30, 1993 and less**
19 **than 10 years creditable service on July 1, 1993.** Any member, whether or not in
20 service at retirement, who on June 30, 1993 was not employed in a position that is
21 covered under the State Employee and Teacher Retirement Program, the Legislative
22 Retirement Program or the Judicial Retirement Program, and who on July 1, 1993 had
23 less than 10 years creditable service, and who has completed at least 25 years of
24 creditable service may retire any time before the member's 62nd birthday. Creditable
25 service as a member of the Maine Public Employees Retirement System may be
26 combined with creditable service as a member of the Maine Legislative Retirement
27 System for the purpose of determining the completion of 25 years of creditable service.
28 The retirement allowance is determined in accordance with section 852, except that it is
29 reduced by 6% for each year that the member's age precedes age 62.

30 **Sec. A-3. 4 MRSA §1351, sub-§3-A**, as amended by PL 1999, c. 756, §9, is
31 further amended to read:

32 **3-A. Early retirement; employed under program on June 30, 1993, but less than**
33 **10 years creditable service on July 1, 1993.** Any member, whether or not in service at
34 retirement, who on June 30, 1993 was employed in a position that is covered under the
35 State Employee and Teacher Retirement Program, the Legislative Retirement Program or
36 the Judicial Retirement Program but who on July 1, 1993 had less than 10 years of
37 creditable service and who has completed at least 25 years of creditable service may retire
38 any time before the member's 62nd birthday. The retirement allowance is determined in
39 accordance with section 1352, except that the benefit is reduced by ~~6%~~ 3% for each year
40 that the member's age precedes age 62.

1 **Sec. A-4. 4 MRSA §1351, sub-§3-B** is enacted to read:

2 **3-B. Early retirement; not employed under program on June 30, 1993 and less**
3 **than 10 years creditable service on July 1, 1993.** Any member, whether or not in
4 service at retirement, who on June 30, 1993 was not employed in a position that is
5 covered under the State Employee and Teacher Retirement Program, the Legislative
6 Retirement Program or the Judicial Retirement Program, and who on July 1, 1993 had
7 less than 10 years creditable service, and who has completed at least 25 years of
8 creditable service, may retire any time before the member's 62nd birthday. The
9 retirement allowance is determined in accordance with section 1352, except that the
10 benefit is reduced by 6% for each year that the member's age precedes age 62.

11 **Sec. A-5. 5 MRSA §17852, sub-§3-A**, as amended by PL 1999, c. 489, §17, is
12 further amended to read:

13 **3-A. Member with creditable service of 25 years or more whether or not in**
14 **service at retirement; employed under program on June 30, 1993, but less than 10**
15 **years of creditable service on July 1, 1993.** The amount of the service retirement
16 benefit for members qualified under section 17851, subsection 3, is computed in
17 accordance with subsection 1, except that:

18 C. The benefit is reduced by ~~6%~~ 3% for each year that the member's age precedes
19 62 years of age; and

20 D. Effective October 1, 1999, the reduction to be applied to the service retirement
21 benefit of a member to whom this subsection applies may not be greater than that in
22 effect on October 1, 1999 under paragraph C for a member who, on October 1, 1999
23 or thereafter, meets the creditable service requirement for eligibility to receive a
24 service retirement benefit under section 17851, subsection 1-C, paragraph A; section
25 17851, subsection 1-C, paragraph B; section 17851, subsection 2-C, paragraph A;
26 section 17851, subsection 2-C, paragraph B; or section 17851-A, subsection 2,
27 paragraph A. For a member to whom section 17851-A applies, this paragraph must
28 be applied in accordance with the requirements of section 17851-A, subsection 4.

29 This subsection applies to members who on June 30, 1993 were employed in a position
30 that is covered under the State Employee and Teacher Retirement Program, the
31 Legislative Retirement Program or the Judicial Retirement Program but who, on July 1,
32 1993, do not have 10 years of creditable service.

33 **Sec. A-6. 5 MRSA §17852, sub-§3-B** is enacted to read:

34 **3-B. Member with creditable service of 25 years or more whether or not in**
35 **service at retirement; not employed under program on June 30, 1993 and less than**
36 **10 years creditable service on July 1, 1993.** The amount of the service retirement
37 benefit for members qualified under section 17851, subsection 3 is computed in
38 accordance with subsection 1, except that:

39 A. The benefit is reduced by 6% for each year that the member's age precedes 62
40 years of age.

1 This subsection applies to members who on June 30, 1993 were not employed in a
2 position that is covered under the State Employee and Teacher Retirement Program, the
3 Legislative Retirement Program or the Judicial Retirement Program and who on July 1,
4 1993 have less than 10 years creditable service.

5 **Sec. A-7. Members receiving service retirement benefits on effective date**
6 **of Act.** Members of the state employee and teacher retirement system governed by the
7 Maine Revised Statutes, Title 5, chapter 423, the legislative retirement system governed
8 by Title 3, chapter 29 and the judicial retirement system governed by Title 4, chapter 27
9 receiving service retirement benefits on the effective date of this Act who would have
10 received an increased service retirement benefit if their benefit had been calculated using
11 the 3% reduction factor provided in this Act must receive such an increased benefit
12 retroactive to their effective date of retirement.

13 **Sec. A-8. Members who retire on or after the effective date of this Act.**
14 As members of the state employee and teacher retirement system governed by the Maine
15 Revised Statutes, Title 5, chapter 423, the legislative retirement system governed by Title
16 3, chapter 29 and the judicial retirement system governed by Title 4, chapter 27 retire on
17 or after the effective date of this Act, their benefits based on service earned in the
18 applicable system on or after the effective date of this Act and their benefits based on
19 service earned in the applicable system prior to the effective date of this Act must be
20 calculated using the 3% reduction factor specified in Title 3, section 851; Title 4, section
21 1351; and Title 5, section 17852.

22 **Sec. A-9. Funding benefits under this Act.** This section provides funding for
23 the benefits provided under this Act.

24 1. For purposes of this section, the following terms have the following meanings.

25 A. "Cost of this Act" means the total of:

- 26 (1) All past service liabilities created by the benefits provided in this Act;
27 (2) The normal cost payments for fiscal year 2009-10 associated with the
28 benefits provided in this Act; and
29 (3) The fiscal year 2009-10 unfunded liability supplemental payment.

30 B. "Fiscal year 2009-10 unfunded liability supplemental payment" means payment of
31 an amount toward the unfunded liability that equals the first year's payment of a 20-
32 year amortization of the amount of the fiscal year 2008-09 unfunded liability
33 payment that is deferred in order to pay the cost of this Act.

34 C. "Unfunded liability" means the unfunded actuarial liability of the Maine Public
35 Employees Retirement System attributable to state employees and teachers under the
36 Constitution of Maine, Article IX, Section 18-B.

37 D. "Unfunded liability payment" means the amount appropriated or allocated by the
38 Legislature for the Maine Public Employees Retirement System as the employer
39 contribution amount paid toward the unfunded liability.

1 2. Notwithstanding the Maine Revised Statutes, Title 5, section 17160, the employer
2 contribution amount paid toward the unfunded liability may be less for fiscal year 2008-
3 09 than the amount paid for that purpose during fiscal year 2007-08, as long as the Board
4 of Trustees of the Maine Public Employees Retirement System takes an action, consistent
5 with sound actuarial practice, to reduce the required unfunded liability payment in fiscal
6 year 2008-09.

7 A. If, on or before the effective date of this Act, the Board of Trustees of the Maine
8 Public Employees Retirement System takes an action to reduce the required unfunded
9 liability payment for fiscal year 2008-09 by an amount that leaves a balance sufficient
10 to fund the cost of this Act, that balance is committed by this Act to fund the cost of
11 this Act.

12 B. If, on or before the effective date of this Act, the Board of Trustees of the Maine
13 Public Employees Retirement System does not take an action that reduces the
14 required unfunded liability payment for fiscal year 2008-09 by an amount sufficient
15 to fund the cost of this Act, the entire amount of the fiscal year 2008-09 unfunded
16 liability payment must be applied toward the unfunded liability.

17 3. Notwithstanding subsection 2, the entire amount of the fiscal year 2008-09
18 unfunded liability payment:

19 A. Must be paid over to the Maine Public Employees Retirement System; and

20 B. Is deemed the employer contribution amount paid toward the unfunded liability
21 for fiscal year 2008-09 for the sole purpose of calculating the required unfunded
22 liability payment for fiscal year 2009-10 and thereafter pursuant to Title 5, section
23 17160.

24 4. Beginning in fiscal year 2010-11, the increase in the normal cost resulting from
25 the benefits provided under this Act and any increase in unfunded liability payments
26 resulting from the application of the 2008-09 unfunded liability payment to fund the cost
27 of this Act must be appropriated or allocated by the Legislature from the General Fund or
28 other appropriate funds in accordance with law.

29 **Sec. A-10. Contingent effective date.** Since the Constitution of Maine, Article
30 IX, Section 18-A requires the Maine Public Employees Retirement System to be funded
31 annually on an actuarially sound basis and prohibits the creation of unfunded liabilities
32 except those resulting from experience losses, sections 1 to 8 take effect only if the Board
33 of Trustees of the Maine Public Employees Retirement System, pursuant to section 9,
34 takes an action to reduce the required unfunded liability payment for fiscal year 2008-09.
35 Within 10 days of the effective date of this Act, the Board of Trustees of the Maine
36 Public Employees Retirement System shall notify the Secretary of the Senate, the Clerk
37 of the House of Representatives and the Revisor of Statutes whether, pursuant to section
38 9, it took an action on or before the effective date of this Act to reduce the required
39 unfunded liability payment for fiscal year 2008-09.

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PART B

Sec. B-1. Design of unified pension and benefit plan for all state employees and teachers who are first employed with the State after December 31, 2010. The Maine Public Employees Retirement System, the Commissioner of Administrative and Financial Services and the State Employee Health Commission, collectively referred to in this Part as "the task force," shall, within their existing resources, design in accordance with this Part a unified pension and benefit plan, referred to in this Part as "the plan," to apply to all state employees and teachers who are first hired after December 31, 2010 with no prior creditable service.

1. Definitions. For purposes of this Part, the following terms have the following meanings.

A. "Teacher" has the same meaning as in the Maine Revised Statutes, Title 5, section 17001, subsection 42.

B. "State employee" includes:

- (1) Employees as defined in Title 5, section 17001, subsection 40;
- (2) Judges entitled to retirement benefits under Title 4, chapter 27 or 29;
- (3) Members of the State Police; and
- (4) Legislators entitled to retirement benefits under Title 3, chapter 29.

2. Health plan. The task force shall design the health plan component of the plan in accordance with this subsection.

A. All active members of the plan and their dependents must be entitled to membership in the health plan. Assessments for coverage under the health plan must be imposed and budgeted in accordance with Title 5, section 286-A. The proportion of the assessment paid on behalf of members by their employers must be in accordance with the law existing on the effective date of this Part or in accordance with applicable collective bargaining agreements.

B. Every active member of the plan and the spouse and dependents of each such member may continue coverage under the health plan in retirement if criteria for eligibility are met as prescribed in Title 5, section 285, subsection 1-A. The task force may recommend changes in eligibility criteria.

C. The health plan premium for any eligible retired member and any covered spouse or dependent of the member must be paid from the Bureau of Human Resources' State Employee Health Dedicated Revenue Account established in Title 5, section 286-A. Each retired member must be entitled to 3% of the premium for each year of creditable service up to a maximum of 90% of the total premium. For a covered spouse or dependent, the subsidy is 1.5% of the premium for each year of the member's creditable service up to a maximum of 45% of the premium.

D. The present actuarial cost of the future benefit subsidy for retired state employees and teachers must be paid 1/2 by the employee and 1/2 by the employer. Payments as calculated and assessed by the Commissioner of Administrative and Financial

1 Services must be remitted on a regular and periodic basis to the Bureau of Human
2 Resources' State Employee Health Dedicated Revenue Account established in Title 5,
3 section 286-A.

4 **3. Pension plan.** The task force shall design the pension plan component of the plan
5 in accordance with this subsection.

6 A. Every member of the plan must contribute to both Social Security and Medicare,
7 and the employer of each member must contribute the employer's share of Social
8 Security and Medicare.

9 B. Each active member of the plan must be entitled to a supplemental defined benefit
10 pension calculated as a percentage of base compensation for each year of service.
11 Base compensation equals the income received in the 5th highest calendar year of
12 service. Benefits are vested after 6 years.

13 C. Normal pension benefits commence after 30 years of service or at 62 years of age,
14 whichever occurs first.

15 D. A member who separates from service before normal retirement may:

16 (1) If the member has at least 6 years of service in the plan, leave the member's
17 contributions and interest on account in the plan until the member retires at 62
18 years of age, with those benefits adjusted each year by an amount equal to the
19 Consumer Price Index, up to an annual maximum of 3.5%;

20 (2) Withdraw 1.5 times the amount of the member's own contributions, plus 6%
21 interest, with the option to roll the amount withdrawn into a tax-sheltered
22 account;

23 (3) Purchase one or more irrevocable annuities or, with a spouse, joint life
24 annuities, to commence at any future time and to end either at death or at the
25 annuitant's normal retirement age for Social Security. The annuity values must
26 equal 1.8 times the member's own contributions plus 6% interest. The Maine
27 Public Employees Retirement System may serve as the annuity underwriter; or

28 (4) Use a combination of the options under paragraphs B and C, subparagraphs
29 (2) and (3).

30 E. The actuarial cost of retiree health insurance and supplemental defined pension
31 benefits, when combined, may not exceed 6% of aggregate payroll for all members.
32 The cost of the plan must be divided equally between the member and the member's
33 employer.

34 F. The actuarial cost of the retiree health benefit, expressed as a percentage of
35 payroll, must be deducted from the 6% payroll charge, and the remainder must be
36 allocated to the funding of a defined benefit system that will be expressed as a
37 percentage of base payroll, rounded to the nearest tenth of a percent.

38 **Sec. B-2. Report.** The task force shall submit a report on its design of the plan,
39 together with any necessary implementing legislation, to the joint standing committee of
40 the Legislature having jurisdiction over labor matters by December 10, 2009. After

1 receipt and review of the report, the joint standing committee may report out a bill to the
2 Second Regular Session of the 124th Legislature.

3 **SUMMARY**

4 The Maine Public Employees Retirement System currently contains 2 separate
5 benefit structures based upon the status of participants on July 1, 1993. Part A of this
6 bill:

7 1. Reduces the early retirement reduction factor from 6% to 3% for employees who
8 were already employed in a position that is covered under the State Employee and
9 Teacher Retirement Program, the Legislative Retirement Program or the Judicial
10 Retirement Program on July 1, 1993, and only those employees who do not have the
11 option to retire at 55 years of age under a special plan;

12 2. Allows the Board of Trustees of the Maine Public Employees Retirement System
13 to reduce the payment in fiscal year 2008-09 toward the unfunded actuarial liability of the
14 state employee and teacher retirement program and, if such a reduction is made, to apply
15 the balance of the amount appropriated for that purpose to fund the past service liabilities
16 created by the benefits provided under the bill, the increase in normal cost in fiscal year
17 2009-10 associated with the benefits provided under the bill and any increased unfunded
18 liability payments required in fiscal year 2009-10 resulting from the reduced unfunded
19 liability contribution in fiscal year 2008-09; and

20 3. Provides that the substantive changes to the Maine Public Employees Retirement
21 System accomplished by this legislation take effect only if the Board of Trustees of the
22 Maine Public Employees Retirement System determines that the reduction in the required
23 unfunded liability payment in fiscal year 2008-09 is consistent with sound actuarial
24 practice.

25 Part B of this bill directs the Maine Public Employees Retirement System, the
26 Commissioner of Administrative and Financial Services and the State Employee Health
27 Commission, within their existing resources, to design a unified pension and benefit plan
28 to apply to all state employees and teachers that are first hired after December 31, 2010.
29 It authorizes submission of the proposed unified pension and benefit plan, together with
30 proposed implementing legislation, to the joint standing committee of the Legislature
31 having jurisdiction over labor matters no later than December 10, 2009 and authorizes the
32 committee to report out a bill to the Second Regular Session of the 124th Legislature.
33 Under this unified pension and benefit plan:

34 1. In order to enhance portability of benefits and eliminate the issues associated with
35 the government pension offset and the windfall elimination provision of the federal Social
36 Security Act, every state employee and teacher subject to the plan will be covered under
37 Social Security;

38 2. All new employees will be members of a common health plan with benefits that
39 are identical to those paid for in accordance with current law and collective bargaining
40 contracts;

- 1 3. In addition to Medicare and Social Security, each member will be entitled to a
2 supplemental defined pension and retiree health benefit;
- 3 4. The present actuarial cost of retiree benefits under the plan will be limited to 6% of
4 payroll to be divided equally between the employee and the employer;
- 5 5. Continuing health coverage will be offered to retirees and their dependents;
- 6 6. A retired member may receive a subsidy of up to 90% of the cost for the retiree's
7 own health insurance and up to 45% of the cost of a spouse or dependent. The level of
8 subsidy will be graduated to reflect length of service;
- 9 7. The future cost of retiree health benefits will be paid into an existing dedicated
10 revenue account by assessing the current payroll of active members a percentage that is
11 divided equally between the member and the member's employer;
- 12 8. Each member's supplemental defined pension will be calculated as a percentage of
13 base year compensation times years of service. The percentage, rounded to the nearest
14 tenth, will be calculated based on funding available after deducting the cost of the retiree
15 health benefit from the 6% total benefit cost; and
- 16 9. A vested member may retire after 30 years of service or at 62 years of age,
17 whichever occurs first. A member who retires early may recover 1.5 times of the
18 member's own contribution plus 6% interest if benefits are withdrawn as cash.