

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 298

H.P. 242

House of Representatives, February 3, 2011

**An Act To Amend the Retirement Benefit Provisions for State  
Employees Working under Special Plans Who Remain Employed  
beyond the Minimum Years Necessary To Qualify for Retirement  
Benefits**

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Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST  
Clerk

Presented by Representative SARTY of Denmark.  
Cosponsored by Senator COURTNEY of York and  
Representatives: COTTA of China, CURTIS of Madison, CUSHING of Hampden, DAVIS of  
Sangerville, HAYES of Buckfield, JOHNSON of Greenville, McKANE of Newcastle, Senator:  
President RAYE of Washington.

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

2 **Sec. 1. 5 MRSA §17852, sub-§4, ¶A**, as amended by PL 1997, c. 396, §1 and  
3 affected by §4, is further amended to read:

4 A. For a ~~person~~ member qualifying under section 17851, subsection 4, paragraph A:

5 (1) The total amount of the service retirement benefit is:

6 (a) Except as provided in division (b), 1/2 of the ~~person's~~ member's average  
7 final compensation and an additional 2% of the ~~person's~~ member's average  
8 final compensation for each year of membership service before October 1,  
9 2011 not included in determining qualification under section 17851,  
10 subsection 4, paragraph A; or

11 (b) If the benefit would be greater, the part of the ~~person's~~ member's service  
12 retirement benefit based upon membership service before July 1, 1976,  
13 determined, on a pro rata basis, on the ~~person's~~ member's current annual  
14 salary on the date of retirement and the part of the ~~person's~~ member's service  
15 retirement benefit based upon membership service after June 30, 1976,  
16 determined in accordance with division (a); ~~and~~

17 (2) Upon the death of a state police officer who is receiving a retirement benefit  
18 after qualifying under section 17851, subsection 4, paragraph A, without optional  
19 modification, or is retired under article 3 or article 3-A, the surviving spouse is  
20 entitled to a retirement benefit that is 1/2 of the amount being paid at the time of  
21 the officer's death. The payment must continue for the remainder of the surviving  
22 spouse's lifetime.

23 For the purpose of this subparagraph, "surviving spouse" means the person the  
24 retired officer was married to at the time of retirement. If the retired officer was  
25 not married at the time of retirement or subsequent to retirement was divorced or  
26 widowed, the term means the person legally married to the officer at the time of  
27 the officer's death; ~~and~~

28 (3) Notwithstanding subparagraph (2), the benefit to which a surviving spouse is  
29 entitled under subparagraph (2) may be awarded in whole or in part to another  
30 person or persons under a domestic relations order that is determined to be a  
31 qualified domestic relations order under section 17059 and, when so awarded, the  
32 benefit must be distributed in accordance with the qualified domestic relations  
33 order.

34 **Sec. 2. 5 MRSA §17852, sub-§5, ¶A**, as enacted by PL 1985, c. 801, §§5 and 7,  
35 is amended to read:

36 A. The total amount of the service retirement benefit is:

37 (1) Except as provided in subparagraph (2), 1/2 of ~~his~~ the member's average final  
38 compensation and an additional 2% of ~~his~~ the member's average final  
39 compensation for each year of membership service before October 1, 2011 not  
40 included in determining qualifications under section 17851, subsection 5; or

1 (2) If ~~his~~ the benefit would be greater, the part of ~~his~~ the member's service  
2 retirement benefit based upon membership service before July 1, 1976, ~~shall be~~  
3 determined, on a pro rata basis, on ~~his~~ the member's current annual salary on the  
4 date of retirement and the part of ~~his~~ the member's service retirement benefit  
5 based upon membership service after June 30, 1976, ~~shall be~~ determined in  
6 accordance with subparagraph (1).

7 **Sec. 3. 5 MRSA §17852, sub-§6, ¶A**, as enacted by PL 1985, c. 801, §§5 and 7,  
8 is amended to read:

9 A. The total amount of the service retirement benefit is:

10 (1) Except as provided in subparagraph (2), 1/2 of ~~his~~ the member's average final  
11 compensation and an additional 2% of ~~his~~ the member's average final  
12 compensation for each year of membership service before October 1, 2011 not  
13 included in determining qualification under section 17851, subsection 6 or 7; or

14 (2) If ~~his~~ the benefit would be greater, the part of ~~his~~ the member's service  
15 retirement benefit based upon membership service before July 1, 1976, ~~shall be~~  
16 determined, on a pro rata basis, on ~~his~~ the member's current annual salary on the  
17 date of retirement and the part of ~~his~~ the member's service retirement benefit  
18 based upon membership service after June 30, 1976, ~~shall be~~ determined in  
19 accordance with subparagraph (1).

20 **Sec. 4. 5 MRSA §17852, sub-§7, ¶A**, as enacted by PL 1985, c. 801, §§5 and 7,  
21 is amended to read:

22 A. Except as provided in paragraph B, 1/2 of ~~his~~ the member's average final  
23 compensation and an additional 2% of ~~his~~ the member's average final compensation  
24 for each year of membership service before October 1, 2011 not included in  
25 determining qualifications under section 17851, subsection 8; or

26 **Sec. 5. 5 MRSA §17852, sub-§8, ¶A**, as enacted by PL 1985, c. 801, §§5 and 7,  
27 is amended to read:

28 A. 1/2 of ~~his~~ the member's average final compensation and an additional 2% of ~~his~~  
29 the member's average final compensation for each year of membership service before  
30 October 1, 2011 not included in determining qualification under section 17851,  
31 subsection 9; or

32 **Sec. 6. 5 MRSA §17852, sub-§9, ¶A**, as enacted by PL 1993, c. 387, Pt. A, §14,  
33 is amended to read:

34 A. Except as provided in paragraph B, the total amount of the service retirement  
35 benefit is 1/2 of the member's average final compensation and an additional 2% of the  
36 member's average final compensation for each year of membership service before  
37 October 1, 2011 not included in determining qualification under section 17851,  
38 subsection 10; or

39 **Sec. 7. 5 MRSA §17852, sub-§10, ¶A**, as enacted by PL 1985, c. 801, §§5 and 7,  
40 is amended to read:

1 A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of  
2 ~~his~~ the member's average final compensation and an additional 2% of ~~his~~ the  
3 member's average final compensation for each year of membership service before  
4 October 1, 2011 not included in determining qualification under section 17851,  
5 subsection 11, paragraph A.

6

### SUMMARY

7 Under current law, certain state employees in special retirement plans, such as the  
8 Maine State Police, marine resources officers and liquor inspectors, earn an additional 2%  
9 of average final compensation for each year those employees work beyond the minimum  
10 retirement age. This bill prospectively eliminates, beginning October 1, 2011, that  
11 additional 2% of the average final compensation computed each year past a member's  
12 minimum retirement age. The bill does not affect the inclusion of the additional 2% of  
13 average final compensation computed for each year beyond a member's minimum  
14 retirement age that occurs prior to October 1, 2011. The bill also amends language to  
15 make it gender-neutral.