

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 542

H.P. 425

House of Representatives, February 15, 2011

An Act To Ensure Retirement Benefits for Members of the Maine Public Employees Retirement System

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative HAMPER of Oxford.
Cosponsored by Senator HASTINGS of Oxford and
Representatives: BICKFORD of Auburn, CEBRA of Naples, DRISCOLL of Westbrook,
FITTS of Pittsfield, PRESCOTT of Topsham, WINSOR of Norway.

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

2 **Sec. 1. 3 MRSA §755, sub-§1**, as amended by PL 2007, c. 491, §17, is further
3 amended to read:

4 **1. Findings.** The Legislature finds that the State owes a great debt to its retired
5 Legislators for their years of faithful and productive service. Part of that debt is repaid by
6 the benefits provided to Legislators through the Legislative Retirement Program. The
7 Legislature further finds that continued accrual of benefits under the defined benefit plan
8 of the Legislative Retirement Program on or after December 5, 2012 is an unnecessary
9 expense and is inconsistent with legislative term limits and the concept of a citizen
10 Legislature. Accrual of benefits under the Legislative Retirement Program after
11 December 5, 2012 is appropriate only for Legislators who are already qualified in the
12 Legislative Retirement Program under section 851 or the Maine Public Employees
13 Retirement System on that date.

14 **Sec. 2. 3 MRSA §801, sub-§1**, as amended by PL 2007, c. 491, §18, is further
15 amended to read:

16 **1. Membership.** Every Until December 5, 2012, every Legislator serving in the
17 Legislature on or after December 3, 1986 is a member of the Legislative Retirement
18 Program, except that any Legislator who was a member of the former Maine State
19 Retirement System on December 2, 1986 may choose to be a member of the State
20 Employee and Teacher Retirement Program instead of becoming a member of the
21 Legislative Retirement Program, and any Legislator who is a public school teacher or an
22 employee of the Maine Community College System on leave of absence for the purpose
23 of serving in the Legislature continues to be a member of the State Employee and
24 Teacher Retirement Program and to have contributions deducted from the member's
25 legislative earnable compensation as provided by Title 5, section 17701. A Legislator
26 who terminates employment from a position requiring membership in the State Employee
27 and Teacher Retirement Program no longer contributes to the State Employee and
28 Teacher Retirement Program and, if qualified, is eligible to become a benefit recipient
29 under Title 5, section 17804. Upon such termination, the Legislator becomes a member
30 of the Legislative Retirement Program. Except as provided in section 802, subsection 4,
31 paragraph A, creditable service granted under the State Employee and Teacher
32 Retirement Program may not be transferred to the Legislative Retirement Program. A
33 member ceases to be a member when the member withdraws the member's contributions,
34 becomes a beneficiary as a result of the member's own retirement or dies. On or after
35 July 1, 2012, unless they have made a previous election, Legislators enrolled in the
36 Legislative Retirement Program or the State Employee and Teacher Retirement Program
37 may make a one-time election whether to remain a member. Once an election is made
38 under this subsection, the election is irrevocable with respect to all subsequent
39 employment with the same employer. A Legislator who is not vested under section 705,
40 subsection 1 or first-time Legislators serving on or after December 5, 2012 may not be
41 members of the Legislative Retirement Program.

42 **Sec. 3. 3 MRSA §801, sub-§1-A**, as amended by PL 2009, c. 474, §4, is further
43 amended to read:

1 **1-A. Waiver provision.** ~~Any~~ Until December 5, 2012, any Legislator may petition
2 the presiding officer for a waiver from the membership provisions of subsection 1 if it
3 can be demonstrated that membership in the Legislative Retirement Program will create
4 or exacerbate a Legislator's federal income tax liability due to the ownership of another
5 retirement plan. The Office of the Executive Director of the Legislative Council shall
6 provide assistance as requested by the Legislator or presiding officer. The presiding
7 officer shall respond to the Legislator's petition within 30 days and shall provide copies
8 of the decision to the Executive Director of the Legislative Council and the Executive
9 Director of the Maine Public Employees Retirement System. A granted waiver of
10 membership constitutes a one-time irrevocable election with respect to all subsequent
11 employment with the same employer when membership in the Legislative Retirement
12 Program is not mandatory.

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

15 **3. Disability retirement.** The period following the termination of service before
16 December 5, 2012 for which a beneficiary receives disability retirement allowance
17 payments under section 853 ~~shall be~~ is allowed as membership service. The period
18 following the termination of service on or after December 5, 2012 for which a beneficiary
19 receives disability retirement allowance payments under section 853 is allowed as
20 membership service only if the beneficiary is a member of the Legislative Retirement
21 Program, as provided in section 801, subsection 1.

22 **Sec. 5. 3 MRSA §805-A**, as amended by PL 2007, c. 491, §22, is further amended
23 to read:

24 **§805-A. Refund of accumulated contributions**

25 **1. Conditions for refund.** ~~¶~~ Except as provided in section 805-B, if the service of
26 any member has terminated, except by death or by retirement under this chapter, the
27 member must be paid the amount of the member's accumulated contributions under the
28 following conditions:

29 A. The member must have properly applied for a refund of accumulated
30 contributions;

31 B. ~~Payment~~ On or after December 5, 2012 concerning a Legislator's membership
32 under section 801, subsection 1, for Legislators or former Legislators seeking a
33 refund of accumulated contributions, payment must be made after termination of
34 service and not less than 22 days nor more than 60 days after receipt of the
35 application and receipt of the last payroll ~~upon~~ from which ~~the name of the member~~
36 ~~appears~~ contributions to the Legislative Retirement Program were taken, whichever
37 occurs later;

38 C. An application for refund is void if the member filing the application returns to
39 membership in any retirement plan administered by the Maine Public Employees
40 Retirement System before issuance of the payment; and

1 D. Only accumulated contributions made by the member or picked up by the
2 employer may be refunded to that member under this subsection.

3 **Sec. 6. 4 MRSA §1301**, as amended by PL 2009, c. 415, Pt. A, §2, is further
4 amended to read:

5 **§1301. Membership**

6 Every judge serving on the court on or after December 1, 1984 must be before July 1,
7 2012 is a member of the Judicial Retirement Program as a condition of employment, but
8 on or after July 1, 2012, unless the member has made a previous election, may make a
9 one-time election whether to remain a member of the Judicial Retirement Program. On
10 or after July 1, 2012, membership in the Judicial Retirement Program for newly
11 appointed judges is optional. A person must make an election at the time of appointment
12 whether to be a member of the program. Once an election is made under this section, the
13 election is irrevocable with respect to all subsequent employment with the same
14 employer.

15 A member ~~shall cease~~ ceases to be a member when ~~he that member~~ that member withdraws his
16 contributions, becomes a beneficiary as a result of ~~his own~~ his own retirement, elects to withdraw
17 from the Judicial Retirement Program or dies.

18 The State Court Administrator shall submit to the board a statement showing the
19 name, title, compensation, sex, date of birth and length of service of each member and
20 any other information as the board may require at such times as the board may require.

21 **Sec. 7. 5 MRSA §17651**, as amended by PL 2007, c. 491, §94, is repealed and the
22 following enacted in its place:

23 **§17651. Membership**

24 All employees hired before July 1, 2012 become members of the State Employee and
25 Teacher Retirement Program as a condition of their employment, but on or after July 1,
26 2012, unless they have made a previous election, employees may make a one-time
27 election whether to remain a member of the program. Once an election is made under
28 this subsection, the election is irrevocable with respect to all subsequent employment
29 with the same employer.

30 **Sec. 8. 5 MRSA §17652, sub-§1-A** is enacted to read:

31 **1-A. Optional membership.** On or after July 1, 2012, membership in the State
32 Employee and Teacher Retirement Program is optional. Notwithstanding section 17659,
33 a person must make an election at the time of hire whether to be a member of the
34 program. Once an election is made under this subsection, the election is irrevocable with
35 respect to all subsequent employment with the same employer when membership in the
36 program is not mandatory.

37 **Sec. 9. 5 MRSA §17654, sub-§2**, as enacted by PL 1985, c. 801, §§5 and 7, is
38 amended to read:

1 **2. Beneficiary.** Becomes a beneficiary as a result of the member's own retirement;
2 or

3 **Sec. 10. 5 MRSA §17654, sub-§3**, as enacted by PL 1985, c. 801, §§5 and 7, is
4 amended to read:

5 **3. Death.** Dies; or

6 **Sec. 11. 5 MRSA §17654, sub-§4** is enacted to read:

7 **4. Opts out.** Elects to withdraw from the program as provided in section 17651 or
8 section 17652, subsection 1-A.

9 **Sec. 12. 5 MRSA §17659** is enacted to read:

10 **§17659. Election to withdraw from the State Employee and Teacher Retirement**
11 **Program**

12 **1. Exercise option.** The retirement system shall provide an opportunity for each
13 member who has not already made a prior election and is a member on July 1, 2012 to
14 elect in writing to terminate membership. An election made by a member under this
15 subsection is irrevocable. The retirement system shall accept written elections under this
16 subsection from members during the period beginning on January 1, 2012 and ending on
17 March 31, 2012. A member who does not make a written election or who does not file
18 the election during the period specified in this subsection continues to be a member of the
19 State Employee and Teacher Retirement Program.

20 **2. Former members.** If an individual who is a former member on July 1, 2012 is
21 later reemployed and by virtue of that reemployment is again eligible for membership, the
22 former member shall elect in writing to remain a member or to terminate membership. An
23 election made by a former member under this subsection is irrevocable. The retirement
24 system shall accept written elections under this subsection from a former member during
25 the period beginning on the date of the commencement of reemployment and ending 90
26 days after that date. A former member who makes and files a written election to remain a
27 member retains all rights and is subject to all conditions as a member of the State
28 Employee and Teacher Retirement Program. A former member who does not make a
29 written election or who does not file the election during the period specified in this
30 subsection continues to be a member of the program.

31 **3. Method of election.** The board shall determine the method by which a member or
32 former member makes a written election under this section.

33 **Sec. 13. Effective date; implementation.** This Act takes effect July 1, 2012,
34 except that the Maine Public Employees Retirement System shall review the provisions
35 of this Act and report in writing to the joint standing committee of the Legislature having
36 jurisdiction over retirement matters no later than December 15, 2011. The report must
37 identify any technical, legal, fiscal or policy issues associated with implementation of this
38 Act. Following review of the report, the committee may report out legislation to address
39 those issues.

1 **SUMMARY**

2 This bill establishes an option for new employees hired on or after July 1, 2012 to
3 become members of the Judicial Retirement Program or the State Employee and Teacher
4 Retirement Program. Current members may make a one-time, irrevocable election to
5 remain as members.

6 Legislators who are not vested as members in the Legislative Retirement Program
7 and first-time Legislators serving on or after December 5, 2012 may not be members of
8 the Legislative Retirement Program. Vested Legislators serving on or after December 5,
9 2010 may make a one-time, irrevocable election to remain as members.

10 Those who do not elect to become members of the Maine Public Employees
11 Retirement System are enrolled in the federal social security program.