

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

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No. 1440

H.P. 1034

House of Representatives, April 24, 2013

An Act To Amend the Retirement Laws Pertaining to Participating Local Districts

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative ROTUNDO of Lewiston.

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

2 **Sec. 1. 5 MRSA §18301, sub-§5** is enacted to read:

3 **5. Member contributions to Participating Local District Consolidated**
4 **Retirement Plan.** The board may establish by rule the rate at which members who
5 participate in the consolidated plan described in chapter 427 contribute to that plan.
6 Rules established pursuant to this subsection are routine technical rules pursuant to
7 chapter 375, subchapter 2-A.

8 **Sec. 2. 5 MRSA §18309, sub-§1**, as amended by PL 2007, c. 491, §221, is
9 further amended to read:

10 **1. Contribution rate.** Except as provided in ~~subsection~~ subsections 2 and 3, each
11 firefighter, including the chief of a fire department, employed by a participating local
12 district that provides a special retirement benefit under section 18453, subsection 4 or 5,
13 shall contribute to the Participating Local District Retirement Program or have pick-up
14 contributions made by the employer at a rate of 8% of earnable compensation as long as
15 employed as a firefighter.

16 **Sec. 3. 5 MRSA §18309, sub-§3** is enacted to read:

17 **3. Member contributions to Participating Local District Consolidated**
18 **Retirement Plan.** The board may establish by rule the rate at which firefighters who
19 participate in the consolidated plan described in chapter 427 contribute to that plan.
20 Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter
21 375, subchapter 2-A.

22 **Sec. 4. 5 MRSA §18310, sub-§1**, as amended by PL 2007, c. 491, §222, is
23 further amended to read:

24 **1. Contribution rate.** Except as provided in ~~subsection~~ subsections 2 and 3, each
25 police officer, including the chief of a police department, employed by a participating
26 local district that provides a special retirement benefit under section 18453, subsection 7
27 or 8, shall contribute to the Participating Local District Retirement Program or have
28 pick-up contributions made by the employer at a rate of 8% of earnable compensation as
29 long as employed as a police officer.

30 **Sec. 5. 5 MRSA §18310, sub-§3** is enacted to read:

31 **3. Member contributions to Participating Local District Consolidated**
32 **Retirement Plan.** The board may establish by rule the rate at which police officers who
33 participate in the consolidated plan described in chapter 427 contribute to that plan.
34 Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter
35 375, subchapter 2-A.

36 **Sec. 6. 5 MRSA §18407, sub-§4**, as amended by PL 2009, c. 473, §§5 and 6, is
37 further amended to read:

1 **4. Determination of adjustment for participating local districts not covered by**
2 **chapter 427.** The cost-of-living adjustment ~~shall be~~ is determined as follows.

3 A. Except as provided in paragraph A-1, whenever there is a percentage increase in
4 the Consumer Price Index from July 1st to June 30th, the board shall automatically
5 make an equal percentage increase in retirement benefits, beginning in September, up
6 to a maximum annual increase of 4%.

7 A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to
8 June 30th, the board shall set the percentage change at 0% for that September. The
9 adjustment for the following year must be set based on the actuarially compounded
10 Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price
11 Index in the subsequent year or years is not sufficient to allow for the adjustment to
12 be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must
13 continue to be applied to following years until such time as the cost-neutrality
14 requirement is met.

15 B. Whenever the annual percentage change in the Consumer Price Index from July
16 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the
17 retirement benefits are necessary to reflect an annual increase ~~or decrease~~ of 4% and
18 shall report that adjustment and the actual increase ~~or decrease~~ in the Consumer Price
19 Index to the Legislature by February 1st of the following year.

20 C. Notwithstanding any other provision of this section, the amount of annual
21 retirement benefit otherwise payable under this Part may not be less than the retired
22 member received on the effective date of his retirement or on July 1, 1977, whichever
23 amount is greater.

24 **Sec. 7. 5 MRSA §18407, sub-§6**, as amended by PL 1993, c. 595, §10, is further
25 amended to read:

26 **6. Eligibility.** Cost-of-living adjustments under ~~this section~~ subsection 4 must be
27 applied to the retirement benefits of all retirees who have been retired for at least 6
28 months before the date that the adjustment becomes payable. Beneficiaries of deceased
29 retirees and members are eligible for the cost-of-living adjustment at the same time the
30 deceased retiree would have become eligible.

31 **Sec. 8. 5 MRSA §18407, sub-§§7 and 8** are enacted to read:

32 **7. Determination of adjustment for participating local districts covered by**
33 **chapter 427.** The cost-of-living adjustment is determined as follows.

34 A. Prior to July 1, 2014, the determination of cost-of-living adjustments for retirees
35 from participating local districts covered by chapter 427 is governed by subsection 4.

36 B. Except as provided in paragraph C, whenever there is a percentage increase in the
37 Consumer Price Index from July 1st to June 30th, the board shall automatically make
38 an equal percentage increase in retirement benefits, beginning in September, up to a
39 maximum annual increase of 3%.

40 C. If there is a percentage decrease in the Consumer Price Index from July 1st to
41 June 30th, the board shall set the percentage change at 0% for that September. The

1 adjustment for the following year must be set based on the actuarially compounded
2 Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price
3 Index in the subsequent year or years is not sufficient to allow for the adjustment to
4 be cost-neutral for the 2 years, the adjustment needed for the cost-neutrality must
5 continue to be applied to following years until such time as the cost-neutrality
6 requirement is met.

7 D. Whenever the annual percentage change in the Consumer Price Index from July
8 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the
9 retirement benefits are necessary to reflect an annual increase of 3% and shall report
10 that adjustment and the actual increase in the Consumer Price Index to the Legislature
11 by February 1st of the following year.

12 E. Notwithstanding any other provision of this section, the amount of annual
13 retirement benefit otherwise payable under this Part may not be less than the
14 retirement member received on the effective date of retirement or on July 1, 1977,
15 whichever amount is greater.

16 **8. Eligibility.** Cost-of-living adjustments under subsection 7 must be applied to the
17 retirement benefits of retirees as follows.

18 A. For retirees who retire prior to September 1, 2015, a cost-of-living adjustment is
19 applied if the retiree has been retired for at least 6 months before the date that the
20 adjustment becomes payable.

21 B. For retirees who retire on or after September 1, 2015, a cost-of-living adjustment
22 is applied if the retiree has been retired for at least 12 months before the date that the
23 adjustment becomes payable.

24 C. A beneficiary of a deceased retiree or member is eligible for the cost-of-living
25 adjustment at the same time the deceased retiree or member would have become
26 eligible.

27 **Sec. 9. 5 MRSA §18451**, as amended by PL 2007, c. 491, §§239 to 243, is further
28 amended to read:

29 **§18451. Qualification for benefits for members not covered under chapter 427**

30 ~~A member's qualification~~ Qualification for service retirement benefits for a member
31 not covered under chapter 427 is governed by subsection 1, 2 or 3, unless the
32 requirements of section 18453 are satisfied, in which case, one or more of the subsections
33 of section 18453 governs.

34 **1. Member in service.** A member who is in service when reaching 60 years of age,
35 or is in service after reaching 60 years of age, qualifies for a service retirement benefit if
36 the member:

37 A. Retires upon or after reaching 60 years of age and has been in service for a
38 minimum of one year immediately before retirement;

1 D. Except as provided in paragraph E, has at least 10 years of creditable service,
2 which, for the purpose of determining completion of the 10-year requirement, may
3 include creditable service as a member of the Legislative Retirement Program; or

4 E. Has at least 5 years of creditable service, which, for the purposes of determining
5 completion of the 5-year requirement, may include creditable service as a member of
6 the Legislative Retirement Program, and:

- 7 (1) Was in service on October 1, 1999;
8 (2) Had left prior to October 1, 1999 with or without withdrawing contributions
9 and on or after October 1, 1999 returned to service; or
10 (3) Was first in service on or after October 1, 1999.

11 **2. Member not in service.** A member who is not in service when reaching 60 years
12 of age qualifies for a service retirement benefit if the member:

13 A. Retires upon or after reaching 60 years of age and, except as provided in
14 paragraph D, has at least 10 years of creditable service, which, for the purpose of
15 determining completion of the 10-year requirement, may include creditable service as
16 a member of the Legislative Retirement Program; or

17 D. Has at least 5 years of creditable service, which, for the purposes of determining
18 completion of the 5-year requirement, may include creditable service as a member of
19 the Legislative Retirement Program, and:

- 20 (1) Was in service on October 1, 1999;
21 (2) Had left service prior to October 1, 1999 with or without withdrawing
22 contributions and on or after October 1, 1999 returned to service; or
23 (3) Was first in service on or after October 1, 1999.

24 **3. Member with creditable service of 25 years or more.** A member, whether or
25 not in service at retirement, who has completed 25 or more years of creditable service
26 qualifies for a service retirement benefit if the member retires at any time after
27 completing 25 years of service, which may include, for the purpose of meeting eligibility
28 requirements, creditable service as a member of the Legislative Retirement Program
29 under Title 3, section 701, subsection 8.

30 **3-A. Five-year minimum creditable service requirement for eligibility to receive**
31 **service retirement benefit at applicable age; applicability.** The minimum requirement
32 of 5 years of creditable service for eligibility to receive service retirement benefits under
33 subsection 1, paragraph E or subsection 2, paragraph D applies only to:

- 34 A. A member who is in service on October 1, 1999;
35 B. Upon return to service, a member who had left service prior to October 1, 1999
36 with or without withdrawing that member's contributions and on or after October 1,
37 1999 returned to service; or
38 C. A member who was first in service on or after October 1, 1999.

1 For those members to whom the 5-year minimum creditable service requirement does not
2 apply, the 10-year minimum creditable service requirement for eligibility to receive
3 service retirement benefits remains in effect on and after October 1, 1999.

4 **Sec. 10. 5 MRSA §18451-A** is enacted to read:

5 **§18451-A. Qualification for benefits for members covered under chapter 427**

6 Qualification for service retirement benefits for a member covered under chapter 427
7 is governed by subsection 1 or 2, unless the requirements of a special plan, as established
8 by the board by rule, have been met.

9 **1. Members prior to July 1, 2014.** Qualification for a service retirement benefit for
10 a member covered under chapter 427 who was a member of a plan provided under
11 chapter 427 prior to July 1, 2014 is governed by section 18451.

12 **2. Members after June 30, 2014.** After June 30, 2014, qualification for a service
13 retirement benefit for a member who was not covered under chapter 427 is governed as
14 follows.

15 A. A member who is in service when reaching 65 years of age, or is in service after
16 reaching 65 years of age, qualifies for a service retirement benefit if the member:

17 (1) Retires upon or after reaching 65 years of age and has been in service for a
18 minimum of one year immediately before retirement; and

19 (2) Has at least 5 years of creditable service, which, for the purposes of
20 determining completion of the 5-year requirement, may include creditable service
21 as a member of the Legislative Retirement Program.

22 B. A member who is not in service when reaching 65 years of age qualifies for a
23 service retirement benefit if the member:

24 (1) Retires upon or after reaching 65 years of age; and

25 (2) Has at least 5 years of creditable service, which, for the purposes of
26 determining completion of the 5-year requirement, may include creditable service
27 as a member of the Legislative Retirement Program.

28 C. A member, whether or not in service at retirement, who has completed 25 or more
29 years of creditable service qualifies for a service retirement benefit if the member
30 retires at any time after completing 25 years of service, which may include, for the
31 purpose of meeting eligibility requirements, creditable service as a member of the
32 Legislative Retirement Program.

33 **Sec. 11. 5 MRSA §18452, sub-§3,** as enacted by PL 1985, c. 801, §§5 and 7, is
34 amended to read:

35 **3. Member with creditable service of 25 years or more.** The amount of the
36 service retirement benefit for members qualified under section 18451, subsection 3, ~~shall~~
37 ~~be~~ is computed in accordance with subsection 1, except that:

1 A. The amount arrived at under subsection 1 ~~shall be~~ is reduced by applying to that
2 amount the percentage that a life annuity due at ~~age 60~~ years of age bears to the life
3 annuity due at the age of retirement.

4 B. For the purpose of making the computation under paragraph A, the board-
5 approved tables of annuities in effect at the date of the member's retirement ~~shall be~~ is
6 used.

7 The amount of the service retirement benefit for members qualified under section
8 18451-A, subsection 2, paragraph C is computed in accordance with subsection 1, except
9 that the benefit is reduced by 6% for each year that the member's age precedes 65 years of
10 age.

11 **Sec. 12. 5 MRSA §18453, first ¶**, as enacted by PL 1985, c. 801, §§5 and 7, is
12 amended to read:

13 A participating local district may, by filing with the board a duly certified copy of its
14 action, provide, in lieu of any other retirement benefit in this Part, special retirement
15 benefit plans in this section. If a member retires after becoming qualified to retire under
16 section 18451 or 18451-A, ~~his~~ the member's retirement benefit ~~will~~ must be computed in
17 accordance with section 18452, if that amount is greater than the amount computed under
18 this section.

19 **Sec. 13. 5 MRSA §18462, sub-§3**, as amended by PL 2001, c. 699, §6, is further
20 amended to read:

21 **3. Reduction of benefits.** Upon retirement before reaching normal retirement age
22 ~~60~~, the service retirement benefit of a member who transferred or who was restored to
23 service subject to subsection 2 ~~shall~~ must be reduced as follows.

24 A. If the member transferred under the provisions of subsection 2, paragraph A, the
25 portion of the retirement benefit based upon creditable service earned after being
26 transferred ~~shall~~ must be reduced in accordance with section 18452, subsection 3.

27 C. If the member was transferred subject to subsection 2, paragraph C, the retirement
28 benefit ~~shall~~ must be reduced in accordance with section 18452, subsection 3.

29 D. If the member was transferred subject to subsection 2, paragraph D, and:

30 (1) If the member completes the service or service and age requirements for
31 retirement under the special plan the member was under previously, the
32 retirement benefit ~~shall~~ may not be reduced; or

33 (2) If the member does not complete the service or service and age requirements
34 for retirement under the special plan the member was under previously, the
35 retirement benefit ~~shall~~ must be reduced in accordance with section 18452,
36 subsection 3.

37 **Sec. 14. 5 MRSA §18506, sub-§1**, as amended by PL 2001, c. 443, §3 and
38 affected by §7, is further amended to read:

1 **1. Excess compensation.** If the compensation received from engaging in any
2 gainful occupation by a beneficiary of a disability retirement benefit exceeds \$20,000 in
3 calendar year 2000 or in any subsequent calendar year exceeds that amount cumulatively
4 increased ~~or decreased~~ by the same percentage adjustments granted under section 18407;
5 ~~subsection 4~~:

6 A. The excess must be deducted from the disability or service retirement benefits
7 during the next calendar year, the deductions to be prorated on a monthly basis in an
8 equitable manner prescribed by the board over the year or part of the year for which
9 the benefits are received; and

10 B. The beneficiary shall reimburse the retirement system for any excess payments
11 not deducted under paragraph A.

12 **Sec. 15. 5 MRSA §18506, sub-§3,** as amended by PL 2007, c. 491, §245, is
13 further amended to read:

14 **3. Restoration to service.** If any recipient of a disability retirement benefit is
15 restored to service, and if the total of the recipient's monthly retirement benefit for any
16 year and the recipient's total earnable compensation for that year exceed the recipient's
17 average final compensation at retirement, increased ~~or decreased~~ by the same percentage
18 adjustments as have been received under section 18407, the excess must be deducted
19 from the disability retirement benefit payments during the next calendar year.

20 A. The deductions must be prorated on a monthly basis over the year or part of the
21 year for which benefits are received in an equitable manner prescribed by the board.

22 B. The recipient of the disability retirement benefit shall reimburse the retirement
23 system for any excess payments not deducted under this section.

24 C. If the retirement benefit payments are eliminated by operation of this subsection:

25 (1) The person again becomes a member of the Participating Local District
26 Retirement Program and begins contributing at the current rate; and

27 (2) When the person again retires, the person must receive benefits computed on
28 the person's entire creditable service and in accordance with the law in effect at
29 that time.

30 **Sec. 16. 5 MRSA §18530, sub-§2,** as amended by PL 2001, c. 443, §4 and
31 affected by §7, is further amended to read:

32 **2. Compensation from employment not covered by this article.** If any person
33 who is the recipient of a disability retirement benefit receives compensation in any year
34 from engaging in any gainful activity or from employment with an employer whose
35 employees are not covered by this article or chapter 423, subchapter ~~4~~ 5, article 3-A,
36 which exceeds \$20,000, increased ~~or decreased~~ by the same percentage adjustments as
37 are granted under section 18407, ~~subsection 4~~, or the difference between the person's
38 disability retirement benefit for that year and the person's average final compensation at
39 the time that the person became a recipient of a disability retirement benefit, increased ~~or~~
40 ~~decreased~~ by the same percentage adjustments as have been granted by section 18407,
41 whichever is greater:

1 A. The excess must be deducted from the disability or service retirement benefits
2 during the next calendar year; the deductions to be prorated on a monthly basis in an
3 equitable manner prescribed by the board over the year or part of the year for which
4 the benefits are received;

5 B. The person shall reimburse the retirement system for any excess payments not
6 deducted under paragraph A. If the retirement benefit payments are eliminated by
7 this subsection, the disability is deemed to no longer exist, the payment of the
8 disability retirement benefit must be discontinued and, except as provided in
9 paragraph C, all of the person's rights to benefits under this article cease;

10 C. If, during the first 5 years of reemployment, the person again becomes disabled,
11 terminates employment and is not covered by any other disability program, the
12 retirement system shall resume paying the disability retirement benefit payable prior
13 to the reemployment with all applicable cost-of-living adjustments and shall provide
14 rehabilitation services under section 18527 if recommended by the medical board. If
15 the benefit payable under the other disability program is not equal to or greater than
16 the benefit under this article, the retirement system shall pay the difference between
17 the amount of the benefit payable under the other disability program and the amount
18 of the benefit payable under this article. The executive director shall require
19 examinations or tests to determine whether the person is disabled as described in
20 section 18521; and

21 D. At any time before the elimination of disability retirement benefit payments by
22 this subsection, the person may request that benefit payments be terminated and the
23 executive director shall terminate benefit payments at the end of the month in which
24 the request is received.

25 **SUMMARY**

26 This bill amends specific defined benefit plan provisions that apply to members of the
27 Participating Local District Consolidated Retirement Plan administered by the Maine
28 Public Employees Retirement System. Specifically, the bill:

29 1. Allows the Board of Trustees of the Maine Public Employees Retirement System
30 to establish by rule the rate at which plan members contribute;

31 2. Reduces the cost-of-living adjustment cap from 4% to 3%;

32 3. Increases from 6 to 12 months the length of time that a retiree must be retired in
33 order to receive a cost-of-living increase;

34 4. Raises the normal retirement age from 60 to 65 years of age for new hires; and

35 5. Increases the early retirement reduction from 2 1/4% to 6% for new hires.

36 The proposed amendments are the recommendations of the Participating Local
37 District Advisory Committee, a committee established by statute that represents both the
38 labor and management interests of participating local districts.