

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 995

H.P. 690

House of Representatives, March 19, 2015

**An Act To Amend the Laws Governing Participating Local Districts
in 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 "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FOLEY of Wells.
Cosponsored by Senator COLLINS of York and
Representatives: GERRISH of Lebanon, MAKER of Calais, PRESCOTT of Waterboro.

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

2 **Sec. 1. 5 MRSA §17103, sub-§6**, as amended by PL 2009, c. 322, §2, is further
3 amended to read:

4 **6. Rights, credits and privileges; decisions.** The board shall in all cases make the
5 final and determining administrative decision in all matters affecting the rights, credits
6 and privileges of all members of all programs of the retirement system whether in
7 participating local districts or in the state service. The board has no jurisdiction to hear a
8 matter or make an administrative decision regarding a claim of an employee of a local
9 plan for which membership is optional pursuant to section 18252, if that claim applies to
10 a time when the employee was not a member of the retirement system.

11 Whenever the board finds that, because of an error or omission on the part of the
12 employer of a member or retired member, a member or retired member is required to
13 make a payment or payments to the retirement system, the board may waive payment of
14 all or part of the amount due from the member or retired member. In these instances of
15 recovery of overpayments from members of the retirement system, the retirement system
16 is governed by section 17054, subsection 3.

17 **Sec. 2. 5 MRSA §18201, sub-§3**, as amended by PL 1991, c. 619, §11 and
18 affected by §18, is further amended to read:

19 **3. Exempt employees.** The local district shall designate in its approval any class of
20 employees that the district determines to be exempt from this Part. If the local district
21 enters into an agreement with an employee or class of employees previously eligible for
22 participation in the plan and the agreement provides for an alternative retirement plan, the
23 employees subject to the agreement are governed by that agreement with respect to all
24 issues related to plan participation, including but not limited to eligibility, enrollment,
25 terms of participation, plan selection and funding. For the purposes of this subsection,
26 "agreement" includes any personnel policies, governing ordinance or other legislation,
27 labor agreements, individual employment agreements or any other determination made by
28 the district with respect to the terms of the employees' employment.

29 **Sec. 3. 5 MRSA §18201, sub-§§5 and 6** are enacted to read:

30 **5. Limitations on claims for participation.** If an employee claims that employee
31 was not offered participation in the plan at the commencement of or during the course of
32 employment with the local district, that employee may not request eligibility for
33 retirement benefits under the plan for any dates of service earlier than 6 years prior to the
34 date on which the claim for eligibility for retirement benefits was first made to the
35 retirement system in writing.

36 **6. Participation in other retirement plans.** If an employee requests retroactive
37 participation in the plan, and during the time for which these retroactive retirement
38 benefits are sought the local district offered and the employee participated in another
39 retirement plan, upon that election by the employee all contributions made to the
40 alternative plan by the employer and a pro rata share of interest earned on those

1 contributions must be paid to the retirement system, up to the amount that the employer is
2 required by the retirement system to pay to fund retroactive benefits under the plan.

3 **Sec. 4. 5 MRSA §18804, sub-§3**, as enacted by PL 1989, c. 811, §3, is amended
4 to read:

5 **3. Excluded employees.** The local district shall designate in its approval any class
6 of employees otherwise provided for by local pension provisions who are excluded from
7 membership in the plan established under this chapter. If the local district enters into an
8 agreement with an employee or class of employees previously eligible for participation in
9 the plan and the agreement provides for an alternative retirement plan, the employees
10 subject to the agreement will be governed by that agreement with respect to all issues
11 related to plan participation, including but not limited to eligibility, enrollment, terms of
12 participation, plan selection and funding. For the purposes of this subsection,
13 "agreement" includes any personnel policies, governing ordinance or other legislation,
14 labor agreements, individual employment agreements or any other determination made by
15 the district with respect to the terms of the employees' employment.

16 **Sec. 5. 5 MRSA §18804, sub-§§5 and 6** are enacted to read:

17 **5. Limitations on claims for participation.** If an employee claims that employee
18 was not offered participation in the plan at the commencement of or during the course of
19 employment with the local district, that employee may not request eligibility for
20 retirement benefits under the plan for any dates of service earlier than 6 years prior to the
21 date on which the claim for eligibility for retirement benefits was first made to the
22 retirement system in writing

23 **6. Participation in other retirement plans.** If an employee requests retroactive
24 participation in the plan, and during the time for which these retroactive retirement
25 benefits are sought the local district offered and the employee participated in another
26 retirement plan, upon that election by the employee all contributions made to the
27 alternative plan by the employer and a pro rata share of interest earned on those
28 contributions must be paid to the retirement system, up to the amount that the employer is
29 required by the retirement system to pay to fund retroactive benefits under the plan.

30 SUMMARY

31 This bill restricts the jurisdiction of the Board of Trustees of the Maine Public
32 Employees Retirement System in making final and determining administrative decisions
33 regarding claims of certain participating local district employees. This bill also makes
34 changes to the laws governing participation and claims for prior service credit for certain
35 participating local district employees.