

MAINE STATE LEGISLATURE

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Date: 4/4/18

L.D. 247
(Filing No. H-716)

APPROPRIATIONS AND FINANCIAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 180, L.D. 247, Bill, "An Act To Amend the Retirement Laws Pertaining to Participating Local Districts"

Amend the bill by striking out everything after the title and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Participating Local District Advisory Committee has recommended changes to the participating local district retirement plan in order to improve future funding levels, reduce rate volatility and protect member benefits; and

Whereas, this legislation requires the Board of Trustees of the Maine Public Employees Retirement System to adopt rules in order for the changes to take effect; and

Whereas, the changes to the participating local district retirement plan must be in effect prior to July 1, 2018 in order for the actuarial calculations used to establish plan costs for the next fiscal year to be based on the amended plan; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 2009, c. 274, §1, is further amended to read:

B. "Earnable For members other than members of the Participating Local District Retirement Program under chapters 425 and 427, "earnable compensation" does not include:

- (1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused

COMMITTEE AMENDMENT

1 accumulated or accrued sick leave, payment for more than 30 days of unused
2 vacation leave or payment for more than 30 days of a combination of both and,
3 effective October 1, 1999, whether or not the member is in service on October 1,
4 1999, the 30-day limitation may not be decreased and the exclusion set out in
5 subparagraph (2) may not be made applicable to such a member;

6 (2) For any member who is not covered by subparagraph (1), payment for any
7 unused accumulated or accrued sick leave or payment for any unused vacation
8 leave; or

9 (3) Any other payment that is not compensation for actual services rendered or
10 that is not paid at the time the actual services are rendered.

11 A payment for unused sick leave or unused vacation leave may not be included as
12 part of earnable compensation unless it is paid upon the member's last termination
13 before the member applies for retirement benefits.

14 **Sec. 2. 5 MRSA §17001, sub-§13, ¶B-1** is enacted to read:

15 B-1. "Earnable compensation" does not include any exclusion in the plan provisions
16 adopted by rule pursuant to section 18801.

17 **Sec. 3. 5 MRSA §18252, sub-§6**, as repealed and replaced by PL 2009, c. 415,
18 Pt. A, §5, is amended to read:

19 **6. Restoration to service.** If Except as provided in section 18457-A, if any person
20 who is the recipient of a service retirement benefit is covered by the United States Social
21 Security Act upon being restored to service, continuation of that person's benefit is
22 governed by the following.

23 A. The person may elect to have the service retirement benefit continued during the
24 period of time the person is restored to service and the person may not accumulate
25 any additional service credits.

26 B. The person may elect to have the service retirement benefit terminated, again
27 become a member of the Participating Local District Retirement Program and begin
28 contributing at the current rate.

29 (1) The person is entitled to accumulate additional service credits during the
30 period of time the person is restored to service.

31 (2) When the person again retires, the person is entitled to receive benefits
32 computed on the person's entire creditable service and in accordance with the law
33 in effect at the time.

34 C. Upon being restored to service, the person must elect to have benefits either
35 continued or terminated. If written notification of the person's election is not
36 received by the executive director within 60 days of restoration to service, the person
37 is deemed to have elected the provisions of paragraph A. The election, regardless of
38 how it is made, is irrevocable during the period of restoration to service.

39 **Sec. 4. 5 MRSA §18302, sub-§3** is enacted to read:

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3. Employer contributions to the Participating Local District Consolidated Retirement Plan. The board may establish by rule the rate at which employers who participate in the Participating Local District Consolidated Retirement Plan in accordance with chapter 427 contribute to that plan. Rules established pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

Sec. 5. 5 MRSA §18356, sub-§4 is enacted to read:

4. Treatment of members of the Participating Local District Consolidated Retirement Plan covered by chapter 427. Notwithstanding the provisions of this section, for members of the Participating Local District Consolidated Retirement Plan, the plan provisions adopted by rule pursuant to section 18801 govern any service credit for unused accrued or accumulated sick leave or unused vacation leave.

Sec. 6. 5 MRSA §18407, sub-§7, as amended by PL 2013, c. 588, Pt. E, §3, is repealed and the following enacted in its place:

7. Determination of adjustment for participating local districts covered by chapter 427. The plan provisions adopted by rule pursuant to section 18801 govern any cost-of-living adjustment.

Sec. 7. 5 MRSA §18407, sub-§8, as enacted by PL 2013, c. 391, §8, is repealed.

Sec. 8. 5 MRSA §18452, sub-§3, as amended by PL 2013, c. 391, §11, is further amended to read:

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

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

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

The amount of the service retirement benefit for members qualified under section 18451-A, subsection 2, paragraph C is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age any benefit reduction for retiring prior to 60 years of age for members qualified under section 18451-A, subsection 1 or prior to 65 years of age for members qualified under section 18451-A, subsection 2 must be contained in the plan provisions adopted by rule pursuant to section 18801 that provide for the payment of the full actuarial cost of retiring prior to 60 years of age or 65 years of age as applicable.

Sec. 9. 5 MRSA §18457-A is enacted to read:

§18457-A. Restoration to service

The plan provisions adopted by rule pursuant to section 18801 govern the return of a retiree to employment by an employer participating in the Participating Local District Consolidated Retirement Plan.

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Sec. 10. 5 MRSA §18801, first ¶, as repealed and replaced by PL 2009, c. 474, §44, is amended to read:

There is established the Participating Local District Consolidated Retirement Plan as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. The purpose of the Participating Local District Consolidated Retirement Plan is to provide retirement allowances and other benefits under this chapter for employees of participating local districts that contract with the retirement system in accordance with section 18804. The board shall establish by rule the plan provisions of the Participating Local District Consolidated Retirement Plan ~~in accordance with section 18804~~. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 5 MRSA §18801, sub-§3, as enacted by PL 1989, c. 811, §3, is amended to read:

3. No reduction of benefits. The level of service retirement benefits for employees of participating local districts that adopt the plan may not be reduced with relation to either benefits based upon service before adoption of the plan or benefits based upon service after adoption of the plan. As used in this subsection, "level of service retirement benefits" means the service credit accrual rate, the number of years included in the definition of "average final compensation," the age and creditable service requirements for receiving an unreduced benefit and the basic benefit formula of years of creditable service multiplied by the service credit accrual rate and average final compensation.

Sec. 12. 5 MRSA §18804, sub-§7 is enacted to read:

7. Withdrawal from participation. The plan provisions adopted by rule pursuant to section 18801 govern the withdrawal of a local district from participation in the plan and must include withdrawal liability payments by the local district of amounts calculated in an actuarially sound manner and appropriate to protect the funding of the plan and treat members, the withdrawing local district and nonwithdrawing local districts in a fair manner.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment replaces the bill, which is a concept draft. The amendment clarifies the rule-making authority for the Board of Trustees of the Maine Public Employees Retirement System to implement changes to the Participating Local District Consolidated Retirement Plan. The changes are based on recommendations made by the Participating Local District Advisory Committee, which is authorized by statute to propose changes to the retirement plan.

The amendment also does the following.

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COMMITTEE AMENDMENT "A" to H.P. 180, L.D. 247

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1. It makes clear that plan provisions that pertain to contribution rates, earnable compensation, service credit for unused sick or vacation leave, cost-of-living adjustments, early retirement reduction, return to work after retirement and withdrawal liability payments that apply to employers and members of the Participating Local District Consolidated Retirement Plan are those adopted by rule pursuant to the Maine Revised Statutes, Title 5, section 18801.

2. It clarifies the meaning of "level of service retirement benefits" as it pertains to permissible changes to service retirement benefits.

3. It provides guidance for the adoption of rules on return to work after retirement and withdrawal liability.

4. It makes clear that any rules adopted by the board relating to the Participating Local District Consolidated Retirement Plan are routine technical rules.

5. It adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



Approved: 03/29/18 *MLAC*

128th MAINE LEGISLATURE

LD 247

LR 1436(02)

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

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Appropriations and Financial Affairs

Fiscal Note Required: Yes

A (H-716)

Fiscal Note

No state fiscal impact

Fiscal Detail and Notes

This legislation gives rulemaking authority to the Board of Trustees of the Maine Public Employees Retirement System (MainePERS) to make changes to the Participating Local District (PLD) Consolidated Retirement Plan based on recommendations of the PLD Advisory Committee. Additional costs to MainePERS associated with the rulemaking process can be absorbed within existing budgeted resources. The fiscal impact to the PLD Consolidated Retirement Plan will depend on what recommendations are implemented and the effective date of any implemented recommendations.