

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

2/2
ROS

L.D. 509

1

Date: 6/8/21

(Filing No. H-490)

2

3

LABOR AND HOUSING

4

Reproduced and distributed under the direction of the Clerk of the House.

5

STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

130TH LEGISLATURE

8

FIRST SPECIAL SESSION

9

COMMITTEE AMENDMENT "A" to H.P. 372, L.D. 509, "An Act To Protect Teachers from a Decrease in Retirement Benefits Arising from the COVID-19 Pandemic"

10

11

Amend the bill by inserting after the title and before the enacting clause the following:

12

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

13

14

Whereas, teachers nearing retirement have experienced a reduction in income from the elimination of an extracurricular or cocurricular position due to circumstances related to the COVID-19 pandemic; and

15

16

17

Whereas, this legislation provides the opportunity for those teachers who are in their last 3 years before retirement to purchase service credit in the state retirement system for the income lost from the extracurricular or cocurricular position from January 1, 2020 to July 1, 2021; and

18

19

20

21

Whereas, it is important that this legislation take effect as soon as possible so those teachers nearing retirement may complete the purchase of that service credit before their retirement; and

22

23

24

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,'

25

26

27

28

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

29

30

Sec. 1. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 2015, c. 385, §2, is further amended to read:

31

32

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member

33

34

COMMITTEE AMENDMENT

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member of a local school administrative unit is subject to loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19 and the member elects to make the payments as set forth in section 17704-B, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

Sec. 2. 5 MRSA §17704-B, as amended by PL 2015, c. 385, §9, is further amended to read:

§17704-B. Back contributions for certain days off without pay

1. Election. If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, or the loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation

ROS

1 included in the calculation of the member's benefit and to make payments set forth in
2 subsection 2.

3 **2. Payment.** The amount that a member who makes the election permitted in
4 subsection 1 must pay is the amount equal to the employee contribution that member would
5 have made on compensation that would have been paid to that member on the days off
6 without pay or for days worked for which the level of pay is reduced as the result of the
7 freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11,
8 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4,
9 paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest by
10 5 or more percentage points. Interest must be computed beginning at the end of the year
11 when those contributions or pick-up contributions would have been made to the date of
12 payment. For the loss of compensation from employment in an extracurricular or
13 cocurricular position that was eliminated or otherwise unavailable during the period from
14 January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus
15 disease referred to as COVID-19, the member must pay an amount equal to the computed
16 actuarial value. If the member elects to make the payment, the retirement system shall
17 withhold the required amount from the member's first retirement benefit check.

18 **3. Benefit calculation.** If the member fails to make the election within 31 days of the
19 notification provided under subsection 1, the retirement system shall calculate the
20 member's retirement benefit without inclusion of the days off without pay and without
21 inclusion of the compensation that otherwise would have been paid if the freezing of merit
22 pay and longevity pay had not occurred during fiscal year 2002-03, 2009-10, 2010-11,
23 2011-12 or 2012-13, or a combination thereof, or the loss of compensation from
24 employment in an extracurricular or cocurricular position that was eliminated or otherwise
25 unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances
26 related to the novel coronavirus disease referred to as COVID-19, as provided in section
27 17001, subsection 4, paragraph A.

28 **Sec. 3. 5 MRS 17768** is enacted to read:

29 **§17768. Service credit for teachers**

30 A member who is a teacher and who experiences a reduction in income from an
31 extracurricular or cocurricular position due to circumstances related to coronavirus disease
32 2019, referred to in this section as "COVID-19," may purchase service credit for the period
33 during which the extracurricular or cocurricular position was eliminated or otherwise
34 unavailable under the following conditions.

35 **1. Eligibility requirements.** A teacher may purchase service credit under this section
36 only if:

37 A. During the 12 months preceding the start of the period of the service credit, the
38 teacher received income from employment in an extracurricular or cocurricular
39 position that was eliminated or otherwise unavailable during the period from January
40 1, 2020 to July 1, 2021 due to circumstances related to COVID-19; and

41 B. The teacher is in the final 3 years of service during the period from January 1, 2020
42 to July 1, 2021.

43 **2. Limit on service credit.** The additional service credit under this section may be
44 purchased only for the period from January 1, 2020 to July 1, 2021.

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

3. Payment. A member purchasing service credit under this section must, before any retirement benefit becomes effective, pay into the Members' Contribution Fund by a single payment or annual direct payments to the State Employee and Teacher Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional service credit purchased under this section. Payments must be made as provided in section 17701, subsection 4.

If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

4. Limitation on use of purchased service credit. Notwithstanding any provision of law to the contrary, service credit purchased under this section may be used only for the purpose of increasing the amount of a member's service retirement benefit by inclusion of the purchased service credit and may not be used to establish a member's qualification for a service retirement benefit.

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

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. The amendment allows a teacher nearing retirement who experiences a reduction in income from the elimination of an extracurricular or cocurricular position due to circumstances related to COVID-19 to purchase service credit in the state retirement system for the income lost from the extracurricular or cocurricular position. The opportunity to purchase service credit is limited to teachers who are in their last 3 years of service and who previously earned income from an extracurricular or cocurricular position that is eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021.

The amendment also clarifies that that lost income is included in the teacher's calculation of average final compensation.

The amendment also adds an emergency preamble and emergency clause to the bill.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 509

LR 1775(02)

An Act To Protect Teachers from a Decrease in Retirement Benefits Arising from the COVID-19 Pandemic

Fiscal Note for Bill as Amended by Committee Amendment *A (H-490)*
Committee: Labor and Housing
Fiscal Note Required: Yes

Fiscal Note

No fiscal impact to State or local school administrative units

Fiscal Detail and Notes

This legislation allows certain teachers who experience a reduction in income from an extracurricular or cocurricular position due to COVID-19 related circumstances eliminating that position to purchase service credit in the state retirement system for the period in which the position was eliminated or otherwise unavailable. Because this legislation requires the member, not the employer, to pay the full actuarial cost of this provision, there is no fiscal impact to the State or local school administrative units.