

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1145

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H.P. 823

House of Representatives, March 22, 2021

**An Act To Eliminate the State Income Tax on Maine Public  
Employees Retirement System Pensions**

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Received by the Clerk of the House on March 18, 2021. Referred to the Committee on  
Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative WARREN of Hallowell.  
Cosponsored by Senator MIRAMANT of Knox and  
Representatives: CUDDY of Winterport, DUNPHY of Old Town, ROEDER of Bangor,  
WARREN of Scarborough, Senator: RAFFERTY of York.

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

2 **Sec. 1. 36 MRSA §5122, sub-§2, ¶M-2**, as amended by PL 2017, c. 170, Pt. H,  
3 §3, is further amended to read:

4 M-2. For tax years beginning on or after January 1, 2016:

5 (1) For each individual who is a primary recipient of retirement plan benefits, the  
6 reduction is the sum of:

7 (a) Excluding military retirement plan benefits and, for tax years beginning on  
8 or after January 1, 2021, uncovered civil service retirement plan benefits, an  
9 amount that is the lesser of:

10 (i) The aggregate of retirement plan benefits under employee retirement  
11 plans or individual retirement accounts included in the individual's federal  
12 adjusted gross income; and

13 (ii) The pension deduction amount reduced by the total amount of the  
14 individual's social security benefits and railroad retirement benefits paid  
15 by the United States, but not less than \$0; and

16 (b) An amount equal to the aggregate of retirement benefits under military  
17 retirement plans and, for tax years beginning on or after January 1, 2021,  
18 uncovered civil service retirement plans included in the individual's federal  
19 adjusted gross income; and

20 (2) For purposes of this paragraph, the following terms have the following  
21 meanings.

22 (a) "Employee retirement plan" means a state, federal or military retirement  
23 plan or any other retirement benefit plan established and maintained by an  
24 employer for the benefit of its employees under the Code, Section 401(a),  
25 Section 403 or Section 457(b), except that distributions made pursuant to a  
26 Section 457(b) plan are not eligible for the deduction provided by this  
27 paragraph if they are made prior to age 55 and are not part of a series of  
28 substantially equal periodic payments made for the life of the primary recipient  
29 or the joint lives of the primary recipient and that recipient's designated  
30 beneficiary.

31 (b) "Individual retirement account" means an individual retirement account  
32 under Section 408 of the Code, a Roth IRA under Section 408A of the Code,  
33 a simplified employee pension under Section 408(k) of the Code or a simple  
34 retirement account for employees under Section 408(p) of the Code.

35 (c) "Military retirement plan" means retirement plan benefits received as a  
36 result of service in the active or reserve components of the United States Army,  
37 Navy, Air Force, Marines or Coast Guard.

38 (d) "Pension deduction amount" means \$10,000.

39 (e) "Primary recipient" means the individual upon whose earnings or  
40 contributions the retirement plan benefits are based or the surviving spouse of  
41 that individual.

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(f) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);.

(g) "Uncovered civil service retirement plan" means retirement plan benefits received under Title 5, Part 20, or a similar retirement plan of another state government, a local government or the Federal Government, as a result of service that is considered noncovered service under 42 United States Code, Section 415(a)(7)(A)(ii);

**SUMMARY**

Retirement benefits under state, local or federal government retirement plans that are based on employment compensation for which contributions are not made to the federal Social Security system result in reductions in the amount of Social Security benefits that a retiree is eligible to receive under the federal windfall elimination provision. This bill provides an income tax exemption for those retirement benefits.