

MAINE STATE LEGISLATURE

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NINETY - SECOND LEGISLATURE

Legislative Document

No. 1163

H. P. 1462

House of Representatives, April 9, 1945.

Reported by a Minority of the Committee on Judiciary. Reports tabled pending acceptance of either report by Mr. Peirce of Augusta (Specially assigned for Thursday, April 12th) and New Draft ordered printed.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT Amending the Law Relating to State Employee's Retirement System to Include Public School Teachers.

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

Sec. 1. R. S., c. 60, § 1, sub-§§ I, IV, V, VII, XI, amended. Subsections I, IV, V, VII, and XI of section I of chapter 60 of the revised statutes are hereby amended to read as follows:

I. "Retirement system" shall mean the employees' and public school teachers' retirement system of the state, as defined in section 2.'

IV. "Employee" shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state normal schools and Madawaska training school, and superintendents of schools in service as such prior to July 1, 1924, but shall not include any member of the state legislature or the council, nor shall it include any member of the state police who is now entitled to retirement benefits under the provisions of sections 21 and 22 of chapter 13, or any judge of the superior court or supreme judicial court who is now or may be later entitled to retirement benefits under the provisions of section 5 of chapter 91 and section 3 of chapter 94. "Public school teacher" shall mean any teacher, principal, supervisor, school nurse, school secretary, or superintendent employed in

any day school within the state not otherwise provided for in this section; also teachers who teach in any school which is supported at least $\frac{3}{5}$ by state or town appropriations. In all cases of doubt the board of trustees shall determine whether any person is an employee or public school teacher as defined in this chapter.'

'V. "Member" shall mean any employee or public school teacher included in the membership of the retirement system, as provided in section 3.'

'VII. "Service" shall mean service as an employee for which compensation is paid by the state or as a public school teacher for which compensation is paid by the state or any sub-division thereof.'

'XI. "Earnable compensation" shall mean the full rate of compensation that would be payable to an employee or public school teacher if he worked the full normal working time for his position. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money.'

Sec. 2. R. S., c. 60, § 2, amended. Section 2 of chapter 60 of the revised statutes is hereby amended to read as follows:

'Sec. 2. Name and date of establishment. A retirement system, as heretofore established, shall be placed under the management of the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this chapter for employees of this state and public school teachers. The retirement system so created shall be established as of July 1, 1942, which date shall be known as the "date of establishment" for the purposes of this chapter, except that for public school teachers the "date of establishment" shall be July 1, 1945. It shall have the powers and privileges of a corporation, and shall be known as the "Employees' and Public School Teachers' Retirement System of the State of Maine", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.'

Sec. 3. R. S., c. 60, § 3, sub-§§ I, II, III, V, VI, amended. Subsections I, II, III, V, and VI of section 3 of chapter 60 of the revised statutes are hereby amended to read as follows:

'I. Any person who shall become an employee or public school teacher after the date of establishment shall become a member of the retirement system as a condition of employment and shall not be entitled to receive any pension or retirement allowance, under any other pension or retire-

ment provisions supported wholly or in part by the state, anything to the contrary notwithstanding, except that any service rendered as a teacher, superintendent, or supervisor prior to becoming a member of this system shall be considered as creditable service under the provisions of this chapter, and any funds which have accumulated to his benefit under any teachers' pension plan shall be transferred to this system; provided, however, that membership shall be optional in the case of any class of elected officials or any class of officials appointed for fixed terms.'

II. Any person who is an employee **or public school teacher** on the date of establishment shall become a member as of that date, unless within 30 days thereafter he shall file with the board of trustees on a form prescribed by the board a notice of his election not to be included in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system. Any employee **or public school teacher** who elects not to become a member by filing such a waiver may thereafter apply for and be admitted to membership, but no such employee **or public school teacher** shall receive prior service credit unless he becomes a member within the first year after the date of establishment.

A. Any person who was on the pay-roll as of December 31, 1941, and who was transferred to the federal employment service and any person employed by the employment service after December 31, 1941 and who subsequently may become a state employee when the so-called employment service shall be returned to the state of Maine as an operating unit, shall be considered a member of the retirement system; provided, however, that the employee designated in this paragraph shall have made payments to the state retirement fund in the same amounts and during the same periods as the other state employees have made to said fund, but the employee in the service of the federal employment service, so called, may be permitted to make up any amounts due to the retirement fund if this is done within 1 year of the date when the so called employment service is returned to the state of Maine, but any employee of the federal employment service who has not paid the contributions shall not be entitled to the benefits of this chapter. Any employee to whom the provisions of this chapter are applicable shall be entitled to all the rights and benefits which he would have accrued had he been employed by this state.'

III. Any person, who becomes a member prior to July 1, 1943 and who has total prior service credit of at least 13 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation after attaining at

least age 65, provided he is still a member and has creditable service of at least 25 years on date of retirement; **and any public school teacher, who becomes a member prior to July 1, 1946 and who has total service credit of at least 13 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation after attaining at least age 60, provided he has creditable service of at least 25 years on date of retirement;** provided further, that any such member upon attaining age 70, **or any public school teacher attaining age 65,** and having creditable service of at least 20 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance.

Any person, who becomes a member prior to July 1, 1943 and who has total prior service credit of at least 22 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation, provided he is still a member and has creditable service of at least 25 years on retirement. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance. Any employee may, if he so elects, pay into the retirement system any or all back contributions covering any or all of the period from July 1, 1942 to July 1, 1943 and receive therefor the proper membership credit for the period for which such back contributions are made.'

'**V.** It shall be the duty of the head of each department to submit to the board of trustees a statement showing the name, title, compensation, duties, date of birth, and length of service of each member and such information regarding other employees in his department as the board may require. **And the superintendent of each school union or system shall have a similar duty in regard to all public school teachers in his union or system.'**

'**VI.** Should any member in any period of 5 consecutive years after last becoming a member be absent from service more than 3 years, or should he withdraw his contributions, or should he become a beneficiary as the result of his own retirement, or die, he shall thereupon cease to be a member; **provided, however, that in case of a public school teacher with 30 years of service, membership shall not be thus terminated except by death;** provided, however, that the membership of any employee **or public school teacher** entering such classes of military or naval service of the United States as may be approved by resolution of the board of trustees, shall be

continued during such military or naval service if he does not withdraw his contributions, and provided further, that any member, who enlists in or is inducted or drafted into the service of the armed forces of the United States, shall be considered as an employee **or public school teacher** under the provisions of this chapter and shall have all the benefits of section 23 of chapter 59, and the state shall contribute to the annuity savings fund such amounts as the member would have been required to contribute if he had been serving the state during his service in the said armed forces in the same capacity as that in which he was serving at the time he joined the service; provided, however, that any member, whose contributions to the annuity fund are paid by the state under the provisions of this section, who withdraws from or ceases to be a member of the retirement system, may not withdraw any of the contributions made by the state under this subsection.'

Sec. 4. R. S., c. 60, § 4, sub-§ II, VI, and VII, amended. Subsections II, VI, and VII of section 4 of chapter 60 of the revised statutes are hereby amended to read as follows:

'II. Under such rules and regulations as the board of trustees shall adopt, each employee **or public school teacher** in service on the date of establishment who becomes a member within 1 year after the date of establishment shall file a detailed statement of all service as an employee **or public school teacher** rendered by him prior to the date of establishment for which he claims credit. Provided further, that any person formerly employed by the state at any time during the period of 3 years prior to July 1, 1942, and who is reemployed by the state at any time prior to July 1, 1945, shall, upon becoming a member, be allowed prior service credit. **Any person formerly employed as a public school teacher at any time during the period of 3 years prior to July 1, 1945 and who is reemployed as a public school teacher at any time prior to July 1, 1948, shall, upon becoming a member, be allowed prior service credit.'**

'VI. When membership ceases, a prior service certificate shall become void, and should the employee **or public school teacher** again become a member, he shall enter the system as a member not entitled to prior service credit.'

'VII. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service, and also, if he has a prior service certificate which is in full force and effect, the period of the service certified on his prior service certificate. **Prior service credit for public school teachers shall include service as a public school**

teacher outside of the state, not to exceed 10 years, provided that the last 7 years immediately preceding retirement shall have been in this state.'

Sec. 5. R. S., c. 60, § 5, sub-§ I, ¶¶ A and B, amended. Paragraphs A and B of subsection I of section 5 of chapter 60 of the revised statutes are hereby amended to read as follows:

'A. Any member in service may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, he desires to be retired, provided that such member at the time so specified for his retirement shall have attained age 65, **in case of public school teachers, age 60** and notwithstanding that during such period of notification he may have separated from service.'

'B. Any member in service who attains age 70, **or public school teacher age 65**, and any employee who has attained age 70 on the date of establishment, **age 65 to apply to public school teachers**, shall be retired forthwith on a service retirement allowance or on the 1st day of the next calendar month; except that any member who is an elected official of the state or an official appointed for a term of years may remain in service until the end of the term of his office for which he was elected or appointed. Notwithstanding the foregoing, on the request of the governor with the approval of the council, the board of trustees may permit the continuation for periods of 1 year, as the result of each such request, of the service of any employee who has attained the age of 70 and who desires to remain in service.'

Sec. 6. R. S., c. 60, § 6, sub-§§ II and III, amended. Subsections II and III of section 6 of chapter 60 of the revised statutes are hereby amended to read as follows:

'II. Upon disability retirement the member shall receive a service retirement allowance if he has attained age 65, **or in case of public school teachers age 60**, otherwise he shall receive a disability retirement allowance which shall consist of:

A. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

B. A pension which, together with his annuity, shall provide a total retirement allowance equal to 90% of 1/70 of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds 25% of his average final compensation; otherwise a pension which, together with his annuity, shall

provide a total retirement allowance equal to 25% of his average final compensation, provided, however, that such allowance shall not exceed 90% of 1/70 of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 65, **or in case of public school teachers, age 60.**'

III. Once each year during the first 5 years following the retirement of a member on a disability retirement allowance, and once in every 3-year period thereafter, the board of trustees may, and upon his application shall, require any disability beneficiary who has not attained age 65, **or in case of public school teachers, age 60,** to under go a medical examination by the medical board or by a physician or physicians designated by the medical board, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not attained age 65, **in case of public school teachers, age 60,** refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for 1 year, all his rights in and to his pension may be revoked by the board of trustees.'

Sec. 7. R. S., c. 60, § 8, amended. Section 8 of chapter 60 of the revised statutes is hereby amended to read as follows:

'Sec. 8. Return of members' contributions. Should a member cease to be an employee **or public school teacher** except by death or by retirement under the provisions of this chapter, he shall be paid the amount of his contributions, together with such interest thereon, not less than $\frac{3}{4}$ of accumulated regular interest, as the board of trustees shall allow; or should a member die, such amount shall be paid to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board, otherwise to his estate.'

Sec. 8. R. S., c. 60, § 11, sub-§§ I, IV, and XII amended. Subsections I, IV, and XII of section 11 of chapter 60 of the revised statutes are hereby amended to read as follows:

I. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in a board of ~~3 trustees~~ **5 trustees**. The board, as heretofore established, shall consist of the chairman of the state personnel board, the treasurer of state, and the state controller, ex officio, **the commissioner of education and a representative from the public school system, to be desig-**

nated by the commissioner of education ; their terms of office as such board members to run concurrently with their terms in said state positions.'

'IV. Each trustee shall be entitled to 1 vote in the board of trustees. ~~Two~~ **Three** trustees shall constitute a quorum for the transaction of any business. ~~Two~~ **Three** votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.'

'XII. Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the system as he shall recommend and the board of trustees shall authorize, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the board for adoption. Having regard to such investigation and recommendation, the board of trustees shall adopt for the retirement system such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter. **Rates of contribution for public school teachers who were formerly members of the Maine teachers' retirement system shall be based upon their ages as of the time they became members of the Maine teachers' retirement system.** In the year 1945 and at least once in each 5-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.'

Sec. 9. R. S., c. 60, § 13, sub-§ 1, ¶¶ A and C, amended. Paragraphs A and C subsection I, of section 13 of chapter 60 of the revised statutes are hereby amended to read as follows :

'A. The annuity savings fund shall be a fund in which shall be accumulated contributions deducted from the compensation of members to provide for their annuities. Upon the basis of such tables as the board of trustees shall adopt and regular interest, the actuary shall determine for each member the proportion of earnable compensation which, when deducted from each payment of his prospective compensation earnable prior to his attainment of age 65, **age 60 for public school teachers**, and accumulated at regular interest until his attainment of said age, shall be computed to provide at that time an annuity equal to the pension to which he will be entitled at that age on account of his service as a member. Such proportion of compensation

shall be computed to remain constant. The proportion so computed for a member age 64, **age 59 for public school teachers**, shall be applied to a member who has attained a greater age before becoming a member of the retirement system. The board of trustees shall certify to the head of each department, and the head of each department shall cause to be deducted from the compensation of each ~~member~~ **employee** on each and every pay-roll of such department for each and every pay-roll period, the proportion of earnable compensation of each ~~member~~ **employee** so computed. The head of any department shall not have any deduction made for annuity purposes from the compensation of a ~~member~~ **employee** who elects not to contribute if he has attained age 65 and has completed 35 years of service. In determining the amount earnable by an ~~member~~ **employee** in a pay-roll period, the board of trustees may consider the annual rate of earnable compensation payable to such ~~member~~ **employee** on the 1st day of the pay-roll period as continuing throughout such pay-roll period, and it may omit deduction from compensation for any period less than a full pay-roll period if an employee was not a member on the 1st day of the pay-roll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of 1% of the annual earnable compensation upon the basis of which such deduction is to be made. The head of each department shall certify to the board of trustees on each and every pay-roll, or in such other manner as the board may prescribe, the amounts deducted. Each of said amounts shall be deducted, and when deducted shall be paid into the annuity savings fund, and shall be credited to the individual account of the member from whose compensation said deduction was made. **In regard to public school teachers, the board of trustees shall certify to each superintendent of schools and each superintendent of schools shall cause to be deducted from the compensation of each public school teacher on each and every pay-roll of all of the public schools for each and every pay-roll period, a proportion of earnable compensation of each public school teacher so computed. The amount of said deductions shall be certified by the superintendent of schools and approved by the governing board to the treasurer of the town and also to the commissioner. The treasurer of the town shall forward in not exceeding 2 payments to the treasurer of state on or before June 30th following, the total of the amounts so deducted. Each of said amounts shall be deducted, and when deducted and forwarded to the state, they shall be paid into the annuity savings fund, and shall be credited to the**

individual account of the member from whose compensation said deduction was made.'

'C. Subject to the approval of the board of trustees, in addition to the contributions deducted from compensation as hereinbefore provided, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this chapter, or any part hereof; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance not in excess of $\frac{1}{2}$ of his average final compensation at age 65, **for public school teachers, age 60.** Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member as an annuity of equivalent actuarial value.'

Sec. 10. R. S., c. 60, § 14, amended. Section 14 of chapter 60 of the revised statutes is hereby amended to read as follows:

'**Sec. 14. Benefits to employees retired prior to date of establishment of this retirement system.** All pensions payable to former employees retired under the provisions of sections 27 and 233, inclusive, of chapter 1 of the public laws of 1933 as they existed immediately prior to July 1, 1942, and all pensions payable to former public school teachers retired or to be retired under the provisions of sections 212 to 220, inclusive, of chapter 37 of the revised statutes as they existed immediately prior to July 1, 1945 shall be continued and paid hereafter from the pension accumulation fund at the full amounts stipulated under said sections prior to such effective date. The residue of any appropriation made for the payment of such pensions shall be transferred and credited to the pension accumulation fund. Any additional amounts required to continue such pensions shall be provided by an increase in the accrued liability contribution otherwise payable to the pension accumulation fund.'

Sec. 11. R. S., c. 60, § 20, additional. Chapter 60 of the revised statutes is hereby amended by adding thereto a new section to be numbered 20, to read as follows:

'**Sec. 20. Merger with teachers' retirement system.** Thirty days after the date of establishment for public school teachers, the teachers' retirement system as established in sections 221 to 241, inclusive, of chapter 37

of the revised statutes, shall merge into the state employees' and public school teachers' retirement system and all funds in the teachers' retirement system shall be transferred to the appropriate fund of the state employees' and public school teachers' retirement system and credited to the individual account of each teacher, except that teachers who elect not to be included in the membership of the state employees' and public school teachers' retirement system, as provided in section 3, may be entitled to withdraw from the annuity fund of the teachers' retirement system all amounts contributed thereto as assessments together with such interest as has accrued thereon.'