

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 1376

S. P. 574

In Senate, May 8, 1951.

Committee on Judiciary and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

**AN ACT to Allow City and Town Employees to Receive Federal Social
Security Benefits.**

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

Sec. 1. R. S., c. 60-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 60-A, to read as follows:

'CHAPTER 60-A.

FEDERAL SOCIAL SECURITY.

Sec. 1. Declaration of policy. In order to extend to employees of the political subdivisions of the state of Maine, who are not members of existing retirement or pension systems, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is hereby declared to be the policy of the legislature, subject to the limitations of this chapter that such steps be taken as to provide such protection to employees of the political subdivisions of the state on as broad a basis as is permitted under the Social Security Act.

Sec. 2. Definitions. For the purposes of this chapter:

The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium

other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

The term "employment" means any service performed by an employee in the employ of any political subdivision of the state, for such employer, except service which in the absence of an agreement entered into under the provisions of this chapter would constitute "employment" as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the state and the federal security administrator entered into under the provisions of this chapter. Employment in positions covered by any retirement system supported wholly or in part by the state or any of its subdivisions may not be included in such agreement;

The term "employee" includes an officer of a political subdivision of the state;

The term "state agency" means the Maine state retirement system;

The term "federal security administrator" includes any individual to whom federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions;

The term "political subdivision" includes an instrumentality of the state of Maine, of one or more of its political subdivisions, the University of Maine, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision;

The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as such act has been and may from time to time be amended;

The term "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Federal Internal Revenue Code as such code has been and may from time to time be amended.

Sec. 3. Federal-state agreement. The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an

agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of any political subdivision of the state with respect to services specified in such agreement which constitute "employment" as defined in section 2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

I. Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of title II of the Social Security Act;

II. The state shall pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 2, equal to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

III. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the 1st day of January, 1951.

IV. All services which constitute employment as defined in section 2, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under the provisions of section 5, shall be covered by the agreement.

Sec. 4. Plans for coverage of employees of political subdivisions.

I. Each political subdivision of the state following the approval of the town meeting of a town or the governing body of a city, district or other instrumentality is hereby authorized to submit for approval by the state agency a plan for extending the benefits of title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment there-

of shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

A. It is in conformity with the requirements of the Social Security Act, and with the agreement entered into under the provisions of section 3;

B. It specifies the source or sources from which the funds necessary to make the payments required by paragraph A of subsection III and by subsection IV are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

C. It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

D. It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and

E. It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act.

II. The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection I, and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

III.

A. Each political subdivision as to which a plan has been approved under the provisions of this section shall pay into the contribution fund, with respect to wages, as defined in section 2, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rate specified in the applicable agreement entered into by the state agency under the provisions of section 3.

B. Each political subdivision required to make payments under the provisions of paragraph A of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in section 2, not exceeding the amount of tax which would be imposed by section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph A of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

IV. Delinquent payments due under paragraph A of subsection III may, with interest at the rate of 6% per year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

Sec. 5. Contribution fund. There is hereby established a special fund to be known as the "contribution fund." Such fund shall consist of and there shall be deposited in such fund: all contributions, interest, and penalties collected under the provisions of section 4; all moneys appropriated thereto under the provisions of this chapter; any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; interest earned upon any moneys in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of this chapter.

The contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for, payment of amounts required to be

paid to the secretary of the treasury pursuant to an agreement entered into under the provisions of section 3; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

From the contribution fund the custodian of the fund shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under the provisions of section 3 and the Social Security Act.

The treasurer of state shall be ex-officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

There are hereby authorized to be appropriated bi-annually to the contribution fund, in addition to the contributions collected and paid into the contribution fund under the provisions of section 4, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the secretary of the treasury which the state is obligated to make pursuant to an agreement entered into under the provisions of section 3.

The state agency shall submit to each regular session of the legislature, at least 90 days in advance of the beginning of each session, an estimate of the amounts authorized to be appropriated to the contribution fund by the preceding paragraph of this section for the next appropriation period.

Sec. 6. Rules and regulations. The state agency shall make and publish such rules and regulations, not inconsistent with the provisions of this chapter, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under the provisions of this chapter.'

Sec. 2. Effective date. The provisions of this act shall be retroactive to January 1, 1951 with respect to any political subdivision that shall elect to accept its provisions as of that date.

Sec. 3. Appropriation. For the purpose of administering the provisions of this act for the biennium beginning July 1, 1951, there is hereby appropriated from the general fund the sum of \$20,000. Any unexpended balance shall not lapse but shall remain a continuing carrying account.