

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

assessments and other payments in accordance with subsection 4 or any interlocal agreement referred to in subsection 5 shall be binding upon and enforceable against the municipality without regard to whether all or any one or more of the waste facilities referred to in subsection 4, paragraph B, subparagraph (1), becomes operational or was or will be in operation during the period for which the fees, assessments or other payments are so charged.

No contract entered into in accordance with subsection 4 nor any ordinance adopted under the authority of subsection 2 shall be deemed a contract in restraint of trade or otherwise unlawful under Title 10, chapter 201.

Notwithstanding any law, charter or ordinance provisions to the contrary, the powers conferred upon a municipality pursuant to subsections 4 and 5 and this subsection ~~shall~~ may be exercised by the municipal officers, as defined in Title 30, section 1901, only when authorized, in the case of a municipality with a city or town council, by action of the council and, in the case of a municipality without such a council, by action of the town meeting. This paragraph shall apply whether or not the action of the city council, town council or town meeting was taken before or after the effective date of this subsection.

Nothing in this section may be construed to be a limitation on the Home Rule powers granted to municipalities under Title 30, section 1917, or on the ability of communities to jointly exercise their powers as is recognized in Title 30, section 1951. This section provides an additional and alternative method for carrying out this subchapter.

Effective July 2, 1985.

CHAPTER 507

H.P. 703 - L.D. 1013

AN ACT Relating to Retirement Options for Legislators.

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

Sec. 1. 3 MRSA c. 29 is enacted to read:

CHAPTER 29

LEGISLATIVE RETIREMENT

SUBCHAPTER I

GENERAL PROVISIONS

§701. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Accumulated contributions. "Accumulated contributions" means the sum of all the amounts credited to a member's individual account, together with regular interest on the account.

2. Actuarial equivalent. "Actuarial equivalent" means a benefit which is of equal value when computed at regular interest, based on the mortality and service tables adopted by the board of trustees.

3. Average final compensation. "Average final compensation" means the average annual rate of earnable compensation of a member during the 3 years of creditable service, not necessarily consecutive, as a Legislator in which the average annual rate of earnable compensation is highest or during his entire period of creditable service if the period is less than 3 years.

4. Beneficiary. "Beneficiary" means any person who receives or is designated to receive a benefit provided by this chapter.

5. Board of trustees. "Board of trustees" means the board provided for in section 731.

6. Child or children. "Child" or "children" means any unmarried, natural, born or unborn or legally adopted progeny of the member, under 18 years of age or under 22 years of age and a full-time student, or, regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment.

The board of trustees shall adopt such rules as are

found necessary for a beneficiary to qualify as a full-time student.

7. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W: United States City Average. All items, 1967=100, unadjusted, as compiled by the United States Department of Labor, Bureau of Labor Statistics; or, if the index is revised or superseded, the Consumer Price Index shall be the index represented by the United States Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar by consumers.

8. Creditable service. "Creditable service" means service rendered while a member of the Maine Legislative Retirement System or the Maine State Retirement System for which credit is allowed under section 802.

9. Earnable compensation. "Earnable compensation" means the actual compensation of a Legislator. Any money paid by the State under an annuity contract for the future benefit of a Legislator shall be considered part of the Legislator's earnable compensation. The earnable compensation of a member retired with a disability retirement allowance under section 853 shall be assumed, for the purposes of determining benefits under this chapter, to be continued after his date of termination of service at the same rate as received immediately prior to that time, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 858.

10. Father. "Father" means a natural or adoptive male parent or male stepparent.

11. Legislator. "Legislator" means a member of the Legislature who is actively serving as of December 3, 1986, or who is elected subsequent to December 2, 1986.

12. Member. "Member" means a Legislator who is included in the membership of the Maine Legislative Retirement System, as provided in section 801.

13. Mother. "Mother" means a natural or adoptive female parent or female stepparent.

14. Parent. "Parent" means mother or father.

15. Regular interest. "Regular interest" means

interest at the rate which the Board of Trustees of the Maine State Retirement System sets from time to time, in accordance with Title 5, section 1061, subsection 2.

16. Retirement. "Retirement" means the termination of membership service with a retirement allowance granted under this chapter.

17. Spouse. "Spouse" means the person currently married to a member.

§702. Name; date of establishment and purpose

There is established the Maine Legislative Retirement System, which shall have the powers and privileges of a corporation.

The purpose of the Maine Legislative Retirement System is to provide retirement allowances and other benefits under this chapter for Legislators.

§703. Exemption from execution

A person's right to a retirement allowance or the return of contributions, the retirement allowance itself, any optional benefit or death benefit or any other right accrued or accruing to any person under this chapter in the fund created under this chapter, shall not be subject to execution, garnishment, attachment or other process, except as provided by this section. These rights shall be unassignable, except as provided by this chapter.

A member's retirement allowance shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process. A member's accumulated contributions, which are refundable under section 805, shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process.

§704. Beneficiaries under disability

Any beneficiary who is entitled to make an election of benefits under subchapter V, but is not lawfully qualified to make that election, shall have that election made in his behalf by the person authorized to do so by Title 18-A, Article V.

SUBCHAPTER II
ADMINISTRATION

§731. Board of trustees

The Board of Trustees of the Maine Legislative Retirement System shall consist of those persons who are members of the Board of Trustees of the Maine State Retirement System. The Board of Trustees of the Maine Legislative Retirement System is responsible for the proper operation and implementation of the Maine Legislative Retirement System under this chapter.

1. Duties. The board shall have the same duties with respect to the Maine Legislative Retirement System as the Board of Trustees of the Maine State Retirement System has with the Maine State Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter 101, subchapters II and III.

2. Administration of Maine Legislative Retirement System. The board of trustees shall administer the Maine Legislative Retirement System and may promulgate and publish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, any rules necessary and proper to give effect to the intent, purposes and provisions of this chapter.

3. Expenses. The trustees shall be compensated, as provided in Title 5, chapter 379, from the funds of the Maine Legislative Retirement System.

4. Oath. Each trustee shall, within 10 days after the effective date of this chapter and thereafter, within 10 days after his appointment or election, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine. This oath shall be subscribed to by the trustee making it, certified by the officer before whom it is taken and immediately filed in the office of the Secretary of State.

5. Quorum. Each voting trustee shall be entitled to one vote on the board of trustees. Four trustees shall constitute a quorum for the transaction of any business. Four votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.

§732. Executive director

The Executive Director of the Maine State Retirement System shall be the Executive Director of the Maine Legislative Retirement System. The executive director shall have the same powers and duties with respect to the Maine Legislative Retirement System as he does with the Maine State Retirement System, except as provided in this chapter.

§733. Actuary

The Actuary of the Maine State Retirement System shall be the Actuary of the Maine Legislative Retirement System.

§734. Medical board

The Medical Board of the Maine State Retirement System shall be the Medical Board of the Maine Legislative Retirement System. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report, in writing to the executive director, its conclusions and recommendations upon all the matters referred to it. If required, other physicians may be employed to report on special cases.

§735. Administrative procedures

Appeal from the executive director's decision shall be the same as provided for the Maine State Retirement System in Title 5, section 1181.

§736. Legal adviser

The Attorney General or an assistant designated by him shall be legal adviser of the Board of Trustees of the Maine Legislative Retirement System.

SUBCHAPTER III

FINANCING

§751. Control of funds

The board of trustees shall be the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the Maine State Retirement System funds in accordance with Title 5, chapter 101, chapter III. The board may establish separate funds or accounts within a fund, as necessary.

§752. Custodian of funds

Except as otherwise provided, the Treasurer of State is the custodian of the funds of the Maine Legislative Retirement System. Upon receipt of vouchers signed by a person or persons designated by the board, the State Controller shall draw a warrant on the Treasurer of State for the amount so authorized. A duly attested copy of the resolution of the board designating those persons and bearing on its face their specimen signatures shall be filed with the State Controller as his authority for making payments upon the vouchers.

§753. Expenses

All money to pay the administrative expenses of the Maine Legislative Retirement System shall be paid by the State.

1. Estimate funds biennially. Biennially the board of trustees shall estimate the amount of money which they deem necessary to provide for the expenses of administration and operation of the Maine Legislative Retirement System during the ensuing biennium. The State shall pay that amount, for that purpose, into the fund established for that purpose.

2. Balance. Any unexpended balance shall not lapse, but shall constitute a continuous carrying account.

§754. Investments

The board of trustees may combine funds from the Maine Legislative Retirement System and the Maine State Retirement System for investment purposes. The assets and funds of the Maine State Retirement System and the assets and funds of the Maine Legislative Retirement System shall not be combined for benefit payment purposes or for administrative expenses.

§755. Legislative findings and intent

1. Findings. The Legislature finds that the State owes a great debt to its retired Legislators for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to Legislators through the Maine Legislative Retirement System.

2. Intent. It is the intent of the Legislature that there shall be appropriated and transferred an-

nually to the Maine Legislative Retirement System the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board of trustees upon the advice of the actuary. The goal of the actuarial assumptions shall be to achieve a fully funded system. The system's unfunded liability shall be funded by annual appropriations over the funding period of the system.

3. Implementation. It shall be the responsibility of the board of trustees to calculate the funds necessary to maintain the system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and to transmit those calculations to the State Budget Officer as required by Title 5, sections 1661 to 1667. It shall be the responsibility of the Legislature to appropriate and transfer those funds annually.

SUBCHAPTER IV

MEMBERSHIP AND CONTRIBUTION

§801. Membership

1. Membership mandatory. Every Legislator serving in the Legislature on or after December 3, 1986, shall be a member of the Maine Legislative Retirement System, except that any Legislator who is a member of the Maine State Retirement System on December 2, 1986, may continue to be a member of that system instead of becoming a member of the Maine Legislative Retirement System, and any Legislator who is a public school teacher on leave of absence shall continue to be a member of the Maine State Retirement System and have contributions deducted from his legislative salary as provided by Title 5, section 1094, subsection 3. A Legislator who is the recipient of a retirement allowance from the Maine State Retirement System shall become a member of the Maine Legislative Retirement System, but no creditable service granted under the Maine State Retirement System shall be transferred to the Maine Legislative Retirement System. A member shall cease to be a member when he withdraws his contributions, becomes a beneficiary as a result of his own retirement or dies.

2. Reports from Legislative Administrative Director. The Legislative Administrative Director shall submit to the board a statement showing the name, title, compensation, sex, date of birth and length of service of each member and any other information as

the board may require at such times as the board may require.

§802. Creditable service

Creditable service for the purpose of determining benefits under this chapter shall be allowed as follows.

1. Legislative service after December 2, 1986. All legislative service of a member after December 2, 1986, for which contributions are made, shall be allowed as creditable service.

2. Legislative service before December 3, 1986. All service of a member as a Legislator before December 3, 1986, shall be allowed as creditable service upon payment of contributions at that percentage rate required of members of the Maine State Retirement System during the period of time covered by the legislative service applied to the earnable compensation of the member, together with interest at a rate set by a rule of the board from the end of the calendar year in which the compensation was paid to the date payment of the contributions is made.

3. Disability retirement. The period following the termination of service for which a beneficiary receives disability retirement allowance payments under section 853 shall be allowed as membership service.

4. Maine State Retirement System service. Creditable service as a member of the Maine State Retirement System as a state employee shall be allowed as creditable service of the Maine Legislative Retirement System as follows.

A. Any member who has not withdrawn his accumulated contributions with the Maine State Retirement System may, upon becoming a Legislator, have his Maine State Retirement System contributions and membership service transferred to his account with the Maine Legislative Retirement System and all creditable service resulting from his membership in the Maine State Retirement System shall be creditable service in the Maine Legislative Retirement System.

All funds in the Maine State Retirement System contributed by the State on account of the member's employment shall be transferred to the Maine Legislative Retirement System and shall be used to liquidate the liability incurred by rea-

son of his previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Maine Legislative Retirement System for the member as have accrued to him by reason of his previous employment and may accrue to him by reason of his membership in the Maine State Retirement System.

B. Any member who has withdrawn his accumulated contributions from the Maine State Retirement System may, subsequent to becoming a Legislator and prior to the date any retirement allowance becomes effective for him, deposit in the fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by him, together with interest at a rate set by a rule of the board from the date of withdrawal to the date of repayment. If repayment is made in installments, interest shall continue to accrue on the outstanding balance. The member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before repayment is completed, the member shall be entitled to credit for that portion of the total of the previous creditable service which the total amount of payments actually made bears to the total amount, including interest at a rate set by a rule of the board from the date of withdrawal to the date the retirement allowance becomes effective.

C. No person may receive benefits under both the Maine Legislative Retirement System and the Maine State Retirement System based upon the same period of service.

5. Amount of service per year. The board shall establish by rule the amount of creditable service to be granted for service rendered during a year, but in no case shall it allow more than one year of service for all service in one calendar year.

§803. State contribution

1. Payment. For each member, the State shall pay annually into the fund an amount known as the employer contribution.

2. Employer contribution. Employer contribution shall be fixed on the basis of the assets and liabilities of the Maine Legislative Retirement System as shown by actuarial valuation and shall be expressed

as a percentage of the annual earnable compensation of each member.

A. The employer contribution rate shall represent the percentage of the member's compensation payable during periods of membership required to provide the difference between the total liabilities for retirement allowances and the amount of the assets in the fund.

B. The employer contribution rate shall be determined on actuarial bases adopted by the board. The rate shall be determined by the board after each valuation and shall continue in force until a new valuation is made.

3. State contribution procedure. The board of trustees shall submit budget estimates to the State Budget Officer in accordance with Title 5, section 1665.

On each payroll for Legislators, the State Controller shall cause a charge to be made of an amount or amounts in payment of the state costs of all charges related to the Maine Legislative Retirement System and which shall be credited to the appropriate accounts of the fund. Percentage rates to be predetermined by the actuary and approved by the board of trustees shall be applied to the total gross salaries of members appearing on those payrolls and the resultant charges shall be periodically credited to the retirement fund.

4. Minimum amount of employer contribution. The aggregate payment by the State into the fund shall be at least sufficient to provide the benefits payable out of the fund during the current year.

§804. Members' contributions

Each member shall contribute at a rate of 4% of earnable compensation.

§805. Return of accumulated contributions

1. Refund of contributions. Following termination of service, except by death or retirement under this chapter, a member, upon application to the Maine Legislative Retirement System, shall be paid the amount of his accumulated contributions to the system, if any.

A. If the member has less than 10 years of cred-

itable service, interest shall not be paid on the accumulated contribution for any period after the 5th anniversary of termination of service.

B. Payment shall be made upon application and upon termination of service and in not less than 22 days and not more than 37 days after receipt of the last payroll upon which the name of the member appears.

2. Applicability. This section shall not apply to contributions paid by the State.

SUBCHAPTER V

PAYMENT OF BENEFITS

§851. Eligibility for retirement

Upon written application to the board setting forth the date upon which he chooses to retire, any member may retire on a service retirement allowance upon meeting one of the following.

1. Age 60 years. Any member in service may retire on or after his 60th birthday. Any member not in service may retire at the age of 60 years or thereafter provided that he has at least 10 years of creditable service or 5 full terms as a Legislator. Creditable service as a member of the Maine State Retirement System after service as a member of the Maine Legislative Retirement System shall be used in determining the completion of 10 years of creditable service.

2. Early retirement. Any member in service who has completed at least 25 years of creditable service, may retire any time before his 60th birthday. Creditable service as a member of the Maine State Retirement System after service as a member of the Maine Legislative Retirement System shall be used in determining the completion of 25 years of creditable service. The retirement allowance shall be determined in accordance with section 852, except that it shall be reduced by multiplying the retirement allowance by a fraction which represents the ratio of the amount of a life annuity due at age 60 years to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement shall be used for this purpose.

§852. Retirement benefits

1. Amount. The service retirement allowance of a

member shall be determined under this chapter in effect on the member's date of final termination of service. Subject to the minimum benefit provided for in paragraph B, the total amount of the retirement allowance of a member retired in accordance with section 851 shall be equal to:

A. One-fiftieth of the member's average final compensation multiplied by the number of years of creditable service allowed under section 802; and

B. Any member who has 10 or more years of creditable service at retirement shall be entitled to a minimum of \$100 per month.

§853. Disability retirement

Any member who becomes disabled while in service may receive a disability retirement allowance on the same basis as provided for members of the Maine State Retirement System by Title 5, section 1122.

§854. Restoration to service

If a recipient of a retirement allowance under this chapter again becomes a member of the Legislature, he may:

1. Receive allowance. Continue to receive the retirement allowance and not accrue any additional creditable service for that legislative service; or

2. Discontinue allowance. Direct, in writing, that the executive director discontinue his retirement allowance and he shall accrue additional creditable service for that legislative service.

§855. Ordinary death benefits

If a member who is in service or a former member who is a recipient of a disability retirement allowance dies, his beneficiary, or relative if he has no designated beneficiary, shall be entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the Maine State Retirement System by Title 5, section 1124.

§856. Accidental death benefits

If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits shall be paid on the same basis as provided for mem-

bers of the Maine State Retirement System by Title 5, section 1125.

§857. Payment of service retirement allowance

All service retirement allowances shall be paid on the same basis as provided for members of the Maine State Retirement System by Title 5, section 1126.

§858. Cost-of-living and other adjustments

Retirement allowances under this chapter shall be adjusted on the same basis as provided for members of the Maine State Retirement System by Title 5, section 1128.

Sec. 2. 5 MRSA §285, sub-§1, ¶A, as enacted by PL 1983, c. 692, §1, is amended to read:

A. Each appointed or elective officer or employee of the State of Maine who is eligible for membership in the Maine State Retirement System, Maine Legislative Retirement System or the State Police Retirement System;

Sec. 3. 5 MRSA §1091, sub-§1 is amended to read:

1. Employee; elected officials. Any person who shall become an employee shall become a member of the retirement system as a condition of employment and shall not be entitled to receive any retirement allowance under any other retirement provisions supported wholly or in part by the State, anything to the contrary notwithstanding. Membership shall be optional in the case of any class of elected officials or any class of officials appointed for fixed terms. Any person who becomes a member of the Legislature after December 3, 1986, shall not be entitled to become a member of the Maine State Retirement System, but shall be entitled to membership in the Maine Legislative Retirement System. A Legislator who is a member of the Maine State Retirement System on December 2, 1986, may continue to be a member as long as he does not withdraw his contributions or become a beneficiary as a result of his own retirement.

Sec. 4. 5 MRSA §1121, sub-§3, as amended by PL 1973, c. 542, §8, is further amended to read:

3. Creditable service of 25 years. Any member who has completed 25 or more years of creditable service may retire any time prior to the attainment of

age 60 and receive a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired. Creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System shall be used in determining the completion of 25 years of creditable service. The retirement allowance shall be determined in accordance with subsection 2, paragraph A, but shall be at a reduced amount determined by applying to the retirement allowance the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement, subject to subsection 4. For this purpose the tables of annuities as approved by the board of trustees at the date of retirement shall be used.

Sec. 5. 5 MRSA §1121, sub-§1, ¶A, as repealed and replaced by PL 1983, c. 480, Pt. A, §5, is amended to read:

A. Any member, who at the attainment of age 60 years is in service, may retire at any time then or thereafter on a service retirement allowance, provided that the member has been in service for a minimum of one year immediately prior to retirement or has at least 10 years of creditable service, upon written application to the board of trustees setting forth at what time he desires to be retired. Creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System shall be used in determining the completion of 10 years of creditable service. Any member not in service may retire at the age of 60 years or thereafter on a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired, provided that he has at least 10 years of creditable service or 5 full terms as a Legislator, any part of which service must have been rendered when he was, or could have been under then existing law, a contributing member to any publicly supported contributory retirement system sponsored by the State and provided that, at the effective date of the retirement allowance, his contributions are on deposit in the Members' Contribution Fund.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

LEGISLATURE

Legislature
Personal Services \$25,500

MAINE STATE RETIREMENT SYSTEM

Legislative Retirement
All Other \$ 3,500

Effective September 19, 1985.

CHAPTER 508

S.P. 370 - L.D. 1004

**AN ACT to Establish a Spent Nuclear Fuel
Disposal Trust Fund.**

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

35 MRSA c. 269, sub-c. VI is enacted to read:

SUBCHAPTER VI

SPENT FUEL DISPOSAL

§3391. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Licensee. "Licensee" means the holder of the operating permit from the United States Nuclear Regulatory Commission for a nuclear power plant.

2. Nuclear power plant or plant. "Nuclear power plant" or "plant" means a nuclear fission thermal power plant.

3. Owner. "Owner" means any electrical company which owns any portion of a nuclear power plant, whether directly or indirectly, through ownership of stock in a company which owns any portion of a nuclear power plant, through membership in a holding company which owns any portion of a nuclear power plant or through other means.