

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1988-89

HUMAN SERVICES,
DEPARTMENT OF

Supplemental Security Income

All Other

\$72,177

Provides funds to reimburse boarding homes for increased wages.

Effective August 4, 1988.

CHAPTER 739

S.P. 977 — L.D. 2595

AN ACT to Provide for Payment of Contributions by Employers Under the Maine State Retirement System.

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

Sec. 1. 5 MRSA §17001, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Accumulated contributions. "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to a the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2.

Sec. 2. 5 MRSA §17001, sub-§13, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. "Earnable compensation" includes:

- (1) Workers' compensation benefits;
- (2) Maintenance, if any; and
- (3) Any money paid by an employer under an annuity contract for the future benefit of an employee; and
- (4) Pick-up contributions.

Sec. 3. 5 MRSA §17001, sub-§28-A is enacted to read:

28-A. Pick-up contributions. "Pick-up contributions" means member contributions to the retirement system which are assumed and paid by the employer through a reduction of members' salaries for services rendered, in accordance with the United States Internal Revenue

Code, Section 414(h), in lieu of employee contributions.

Sec. 4. 5 MRSA §17054, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that:

Sec. 5. 5 MRSA §17154, sub-§§5 and 6, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

5. Payment of employer charges for state employees. For state employees, on every payroll from which retirement contributions are deducted or picked up, the State Controller shall cause a charge to be made to each department of the State in order to pay employer costs.

A. The charge shall be a percentage, to be predetermined by the actuary and approved by the board, of the total gross salaries earnable compensation of members appearing on the payroll of each department.

B. The amount or amounts shall be credited to the appropriate funds as listed in this subchapter.

6. Payment of employer charges for teachers. For teachers, percentage rates to be predetermined by the actuary and approved by the board shall be applied to the total gross salaries earnable compensation of members covering the most recent school year preceding the preparation of the biennial budget.

A. The resulting amount shall be appropriated and credited to the appropriate funds.

B. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided from federal grants or through federal reimbursement shall be paid by local school systems from those federal funds.

Sec. 6. 5 MRSA §17158, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17158. Full funding

Upon full funding of the accrued unfunded reserves of the Maine State Retirement System, the board of trustees may reduce employer contributions to the level required to maintain proper funding of earned benefits. The board of trustees may also seek legislative action to reduce employee contributions or pick-up contributions established by this Part.

Sec. 7. 5 MRSA §17203, sub-§§3 and 4, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

3. Member's consent. Every member shall be deemed to consent to allow the chief administrative officer of his department, school or participating local district to make deductions from the member's compensation or to make pick-up contributions to satisfy the member's required contribution to the retirement system.

4. Discharge of claims. Payment of compensation to a member, minus the ~~deduction~~ adjustment to compensation resulting from a deduction or employer pick-up contributions under this section, shall be a complete discharge of all claims and demands based on the services rendered by the member during the period covered by the payment, except for any claims or demands for the benefits provided under this Part.

Sec. 8. 5 MRSA §17253, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Computation. The employer contribution rate shall be determined as the percentage of the members' earnable compensation payable during the members' periods of membership required to provide the difference between the total liabilities for retirement allowances not provided by the members' accumulated contributions and the amount of the assets in the Retirement Allowance Fund.

Sec. 9. 5 MRSA §17652, sub-§2, ¶¶A and B, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

A. A person who joins the retirement system under this subsection may not pay contributions or have pick-up contributions made on or receive any service credit for the period during which ~~he that person~~ elected not to be a member of the system.

B. Membership service credit for persons joining the retirement system under this subsection shall begin as of the effective date of first contributions or pick-up contributions to the system.

Sec. 10. 5 MRSA §17654, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Withdrawal. Withdraws his accumulated contributions;

Sec. 11. 5 MRSA §17655, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. Any employee entering a class of service in the Armed ~~Forced~~ Forces of the United States approved by resolution of the board, if the employee does not withdraw his accumulated contributions; and

Sec. 12. 5 MRSA §17657, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Membership in the retirement system. The following persons are considered members of the retire-

ment system if they make payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund, either through direct contributions or pick-up contributions:

A. Any person who was an employee on December 31, 1941, and who was transferred to the federal employment service; and

B. Any person employed by the federal employment service after December 31, 1941, who subsequently became a state employee at or after the date on which the federal employment service was returned to the State as an operating unit.

Sec. 13. 5 MRSA §17658, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Membership in the retirement system. Any person who was an employee on December 31, 1941, and who later transferred to the Maine National Guard and was employed under the National Defense Act of June 3, 1916, section 90, is considered a member of the retirement system if ~~he that person~~ makes payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund, either through direct contributions or pick-up contributions.

Sec. 14. 5 MRSA §17701, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17701. Member contributions

Each member shall contribute to the retirement system or have pick-up contributions made at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part.

1. Employer pick-up. The contributions required to be made on behalf of a member under this section shall, after the effective date of this section, be picked up by the employer in lieu of contributions by the employee with a reduction of the member's salary consistent with section 17001, subsection 28-A.

2. No employee option. The employee may not choose to receive pick-up contribution amounts directly instead of having them paid by the employer to the system.

2-A. Optional members. If a person, whose membership in the Maine State Retirement System is optional under section 17652, elects a 5% salary increase in lieu of state payment of the retirement contribution, pursuant to Public Law 1981, chapter 453, and chooses to participate in the Maine State Retirement System, the State shall pick up the retirement contribution with a reduction of the member's salary consistent with section 17001, subsection 28-A.

3. Treatment of pick-up contributions. Pick-up contributions shall be treated as follows.

A. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to the United States Code, Title 26, Section 414(h)(2).

B. For all other purposes, pick-up contributions shall be treated in the same manner and to the same extent as member contributions were treated before the effective date of this section.

Sec. 15. 5 MRSA §17702, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

Notwithstanding any other provision in this Part, the State may agree to provide for members, pursuant to law, through a collective bargaining contract, ~~and or as~~ the Legislative Council may agree to provide, for approved legislative employees, payment for a member's mandatory contribution to the Maine State Retirement System, as established by section 17701, instead of deducting the contribution from the member's compensation or having the contribution picked up by the employer.

Sec. 16. 5 MRSA §17702, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Manner of payment. Payments shall be made in the same manner and on the same basis as contributions deducted from the member's compensation or picked up by the employer under sections 17201, 17202 and 17203.

Sec. 17. 5 MRSA §17704, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Amount of payment. The amount of payment must be equal to the contributions that the member would have paid or had picked up by the employer had he the member been a member during the entire period from the date of first employment to the date of becoming a member plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest shall be computed beginning the end of the year when those contributions or pick-up contributions would have been made or beginning July 1, 1957, whichever is later, to the date of payment.

Sec. 18. 5 MRSA §17705, as repealed and replaced by PL 1987, c. 256, §6, is amended to read:

§17705. Refund of accumulated contributions

If the service of any member has terminated, except by death or by retirement under this Part, the member shall be paid the amount of his accumulated contributions, under the following conditions.

1. Ten or more years of service. If the member has

10 or more years of creditable service at the time ~~he terminates service~~ service is terminated, ~~he~~ the member must have properly applied for a refund of accumulated contributions. Refunds of accumulated contributions are governed as follows.

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

B. An application for refund is void if the member filing the application returns to service as a state employee or teacher before issuance of the payment.

C. Only contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

2. Less than 10 years of service. If the member has less than 10 years of creditable service at the time ~~he terminates service~~ service is terminated, refunds of accumulated contributions are governed as follows:

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service.

C. An application for refund is void if the member filing the application returns to service as a state employee or teacher before issuance of the payment.

D. Only contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

E. The member must have properly applied for a refund of accumulated contributions, provided that rules adopted by the board may provide for an automatic refund of contributions if the member has not properly applied for a refund and the amount of accumulated contributions is less than \$650.

Sec. 19. 5 MRSA §17706, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17706. Inactive accounts

Any member account in the retirement system which has been inactive for 10 or more years, and which has a balance of accumulated contributions under \$100, may be transferred by the executive director to the Retirement Allowance Fund.

1. Restoration to service. Any former member who is restored to service may have any accumulated contributions and interest transferred under this section restored to that member's credit.

2. Refunds. Any former member who applies for a refund of accumulated contributions and interest transferred under this section shall be paid that refund in accordance with section 17705.

Sec. 20. 5 MRSA §17708, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Before September 1, 1984. A state police officer who was first employed by that department after July 9, 1943, but before September 1, 1984, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until ~~he~~ the state police officer has completed 20 years of creditable service, as required under section 17851, subsection 4, paragraph A; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of ~~his~~ employment as a state police officer.

Sec. 21. 5 MRSA §17709, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

Sec. 22. 5 MRSA §17710, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17710. Marine Resources officers

1. Before September 1, 1984. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until ~~he~~ the officer has completed 20 years of creditable service, as required under section 17851, subsection 6; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of ~~his~~ employment in that capacity.

2. Commissioner or deputy commissioner. A commissioner or deputy commissioner of the Department of Marine Resources may elect to contribute as a member or have pick-up contributions made by the employer under section 17701, rather than under this section, ~~if he~~

~~files by filing~~ a written copy of the election of ~~his~~ choice with the board.

Sec. 23. 5 MRSA §17711, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A forest ranger in the Bureau of Forestry, Department of Conservation, who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

Sec. 24. 5 MRSA §17712, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17712. Maine State Prison employees

1. Before September 1, 1984. An employee of the Maine State Prison who holds a position described in section 17851, subsection 11, and who was first employed in one of those capacities before September 1, 1984, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until ~~he~~ the employee has met the eligibility requirements for retirement under section 17851, subsection 11, paragraph A; and

B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of ~~his~~ employment in one or more of those capacities.

2. After August 31, 1984. An employee of the Maine State Prison who was first employed after August 31, 1984, in a position described in section 17851, subsection 11, shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until ~~he~~ the employee has completed 25 years of creditable service in one or more of those capacities; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of ~~his~~ employment in one or more of those capacities.

Sec. 25. 5 MRSA §17801, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17801. Amendment not to cause reduction in benefit

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, earnable compensation, employee contributions, pick-up contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment.

Sec. 26. 5 MRSA §17851, sub-§7, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Contributed or had pick-up contributions made by the employer as a law enforcement officer under section 17710, subsection 1.

Sec. 27. 5 MRSA §17855, sub-§3, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. The person shall again become a member of the retirement system and shall begin contributing or having pick-up contributions made by the employer at the current rate; and

Sec. 28. 5 MRSA §18251, sub-§2, ¶D, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

D. A person who elects not to join the retirement system under paragraph B or C at the beginning of his employment may at any time apply for and be admitted to membership.

(1) A person who joins the retirement system under this subsection may not pay contributions or have pick-up contributions made on or receive any service credit for the period during which he the person elected not to be a member of the retirement system.

(2) Membership service credit for persons joining the retirement system under this subsection shall begin as of the effective date of first contributions or pick-up contributions to the retirement system.

(3) This paragraph applies to any member who begins membership after December 31, 1985.

Sec. 29. 5 MRSA §18252, sub-§§2 and 3, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

2. Employee who is a participating member. An employee who is a participating member of the retirement system and who wishes to withdraw from the system may, at his the employee's discretion, withdraw his accumulated contributions in accordance with the procedures in section 18306.

3. Employee who has previously withdrawn. An employee who has previously withdrawn from the retirement system may choose to rejoin the system within 3 years of his withdrawal under the following conditions.

A. He The employee must repay to the retirement system an amount equivalent to the withdrawn accumulated contributions plus the amount of interest which would be required of any terminated employee who had become reemployed and had elected to rejoin the retirement system and to repay his the contributions.

B. The employer must still be a participating local district allowing new membership in the retirement system.

C. The right to rejoin is limited to one occurrence.

Sec. 30. 5 MRSA §18254, sub-§§1 and 4, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

1. Employee who withdraws accumulated contributions. An employee of the district who withdraws his accumulated contributions may not be a member of the retirement system as an employee of that district.

4. Former employee who has not withdrawn accumulated contributions. For a former employee who has not withdrawn his accumulated contributions from the retirement system, the district shall continue to be a participating local district and that person shall be subject to this Part.

Sec. 31. 5 MRSA §18257, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Withdrawal. Withdraws his accumulated contributions;

Sec. 32. 5 MRSA §18258, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw his accumulated contributions; and

Sec. 33. 5 MRSA §18301, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§18301. Member contribution

Each member shall contribute to the retirement system or have pick-up contributions made by the employer at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part.

1. Employer pick-up. The contributions required to be made on behalf of a member under this section shall, after the effective date of this section, be picked up by the employer in lieu of contributions by the employee with a reduction of the member's salary consistent with section 17001, subsection 28-A.

2. No employee option. The employee may not choose to receive pick-up contribution amounts directly instead of having them paid by the employer to the system.

3. Treatment of pick-up contributions. Pick-up contributions shall be treated as follows.

A. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to the United States Code, Title 26, Section 414(h)(2).

B. For all other purposes, pick-up contributions shall be treated in the same manner and to the same extent as member contributions were treated before the effective date of this section.

Sec. 34. 5 MRSA §18303, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. The contributions and pick-up contributions computed under sections 18301 and 18302;

Sec. 35. 5 MRSA §18305, sub-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Amount of payment. The amount of payment must be equal to the contributions that the member would have paid or had picked up by the employer had ~~he~~ the member been a member during the entire period from the date of first employment to the date of becoming a member plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest shall be computed beginning the end of the year when those contributions or pick-up contributions would have been made or beginning July 1, 1957, whichever is later, to the date of payment.

Sec. 36. 5 MRSA §18306, as repealed and replaced by PL 1987, c. 256, §25, is amended to read:

§18306. Refund of accumulated contributions

If the service of any member has terminated, except by death or retirement under this Part, or if an employee of a district which withdraws from participation under section 18203 wishes to have his accumulated contributions refunded, the member or employee shall be paid the amount of his accumulated contributions under the following conditions.

1. Ten or more years of service. If the member has 10 or more years of creditable service at the time ~~he terminates service~~ service is terminated, ~~he~~ the member must have properly applied for a refund of accumulated contributions. Refunds of accumulated contributions are governed as follows.

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and of the last payroll upon which the name of the member appears, whichever occurs later.

B. An application for refund is void if the member filing the application returns to service before issuance of the payment.

C. Only contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

2. Less than 10 years of service. If the member has less than 10 years of creditable service at the time ~~he~~

~~terminates service~~ service is terminated, refunds of accumulated contributions are governed as follows:

A. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and of the last payroll upon which the name of the member appears, whichever occurs later.

B. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service.

C. An application for refund is void if the member filing the application returns to service before issuance of the payment.

D. Only contributions made by a particular member or picked up by the employer may be refunded to that member under this section.

E. The member must have properly applied for a refund of accumulated contributions, provided that rules adopted by the board may provide for an automatic refund of contributions if the member has not properly applied for a refund and the amount of accumulated contributions is less than \$650.

Sec. 37. 5 MRSA §18307, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§18307. Inactive accounts

Any member account in the retirement system which has been inactive for 10 or more years and which has a balance of accumulated contributions under \$100 may be transferred by the executive director to the Retirement Allowance Fund.

1. Restoration to service. Any former member who is restored to service may have any accumulated contributions and interest transferred under this section restored to that member's credit.

2. Refunds. Any former member who applies for a refund of accumulated contributions and interest transferred under this section shall be paid that refund in accordance with section 18306.

Sec. 38. 5 MRSA §18309, sub-§1, as amended by PL 1987, c. 256, §26, is further amended to read:

1. Contribution rate. Except as provided in subsection 2, each fire fighter, including the chief of a fire department, employed by a participating local district which provides a special retirement benefit under section 18453, subsection 4 or 5, shall contribute to the retirement system or have pick-up contributions made by the employer at a rate of 8% of earnable compensation ~~so~~ as long as ~~he~~ is employed as a fire fighter.

Sec. 39. 5 MRSA §18310, sub-§1, as amended by PL 1987, c. 256, §27, is further amended to read:

1. Contribution rate. Except as provided in subsection 2, each police officer, including the chief of a police department, employed by a participating local district which provides a special retirement benefit under section 18453, subsection 7 or 8, shall contribute to the retirement system or have pick-up contributions made by the employer at a rate of 8% of earnable compensation ~~so~~ as long as he is employed as a police officer.

Sec. 40. 5 MRSA §18358, sub-§1, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Service credit for all membership service for which contributions are paid into the retirement system by the member or picked up by the employer.

Sec. 41. 5 MRSA §18358, sub-§2, ¶A and B, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

A. May not pay contributions or have pick-up contributions made by the employer on or receive any service credit for the period during which he the person elected not to be a member of the retirement system; and

B. Begins to accrue membership service credit on the effective date of first contributions or pick-up contributions to the retirement system.

Sec. 42. 5 MRSA §18401, as enacted by PL 1985, c. 801, §§ 5 and 7, is amended to read:

§18401. Amendment not to cause reduction in benefit

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, earnable compensation, employee contributions, pick-up contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment.

Sec. 43. 5 MRSA §18457, sub-§3, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. The person shall again become a member of the retirement system and shall begin contributing or having pick-up contributions made by the employer at the current rate; and

Sec. 44. 36 MRSA §5122, sub-§1, as amended by PL 1987, c. 504, §9, is further amended to read:

1. Additions. Federal adjusted gross income shall be increased by:

A. Interest or dividends on obligations or securities of any state or of a political subdivision or authority thereof (other than this State and its political subdivisions and authorities);

B. Interest or dividends on obligations of any author-

ity, commission, instrumentality, territory or possession of the United States which by the laws of the United States are exempt from federal income tax but not from state income tax;

D. The amount of any net operating loss in the taxable year which has been carried back to previous years pursuant to the United States Internal Revenue Code, Section 172;

E. The amount of any deduction claimed for the taxable year under the United States Internal Revenue Code, Section 172 which has previously been used to offset the modifications provided by this subsection; ~~and~~

F. For a taxable year ending in 1984, the sum of the following portions of the deductions allowed for that taxable year to the taxpayer under the United States Internal Revenue Code, Section 168:

- (1) 2.5% of the deductions for 3-year property;
- (2) 7.5% of the deductions for 5-year property;
- (3) 12.5% of the deductions for 10-year property; and
- (4) 20% of the deductions for 15-year property; and

G. Pick-up contributions paid by the taxpayer's employer on the taxpayer's behalf to the Maine State Retirement System as defined in Title 5, section 17001, subsection 28-A.

Sec. 45. 36 MRSA §5122, sub-§2, ¶C, as repealed and replaced by PL 1985, c. 506, Pt. A, §78, is amended to read:

C. Social security benefits and tier 1 railroad retirement benefits paid by the United States, to the extent included in federal adjusted gross income; ~~and~~

Sec. 46. 36 MRSA §5122, sub-§2, ¶D, as enacted by PL 1985, c. 506, Pt. A, §78, is amended to read:

D. For each of the taxable years ending in 1985 through 1987, 1/3 of the amount by which federal adjusted gross income was increased for the taxable year ending in 1984 under subsection 1, paragraph F; and

Sec. 47. 36 MRSA §5122, sub-§2, ¶E is enacted to read:

E. Pick-up contributions paid to the taxpayer by the Maine State Retirement System which have been previously taxed under this Part.

Sec. 48. Effective date. Since this Act is contingent upon approval of the employer pick-up plan of the Maine State Retirement System by the Internal Revenue Serv-

ice under the United States Code, Title 26, Section 414(h)(2), the provisions of this Act shall become effective as of the date of approval of the pick-up plan by the Internal Revenue Service. The Maine State Retirement System shall put the pick-up plan into operation within a reasonable period of time after approval by the Internal Revenue Service. If the employer pick-up plan is not approved by the Internal Revenue Service, this Act shall be null, void and of no effect.

Sec. 49. Changes in option. Persons whose membership in the Maine State Retirement System is optional under the Maine Revised Statutes, Title 5, section 17652 shall have 60 days after the implementation of the pick-up plan to change their option under Public Law 1981, chapter 453. The Maine State Retirement System with assistance from the Department of Administration shall provide notice to these employees. New employees whose membership is optional shall continue to exercise their option at the time of appointment.

Legislative employees who chose an option providing for state payment of the members' contribution to the Maine State Retirement System under an option provided by the Legislative Council pursuant to the authority granted under Public Law 1981, chapter 700 shall have 60 days after implementation of the pick-up plan to change their option. This enables them to participate in the pick-up plan on an equal basis with other similarly situated legislative employees who did not choose the option providing for state payment of the members' contributions pursuant to Public Law 1981, chapter 700.

Effective August 4, 1988, unless otherwise indicated.

CHAPTER 740

S.P. 932 — L.D. 2443

AN ACT to Amend the Maine Tort Claims Act.

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

Sec. 1. 14 MRSA §8103, sub-§2, as amended by PL 1987, c. 402, Pt. A, §103, is repealed.

Sec. 2. 14 MRSA §8103, sub-§3, as amended by PL 1987, c. 110, is repealed.

Sec. 3. 14 MRSA §8104, as amended by PL 1985, c. 569, §5, is repealed.

Sec. 4. 14 MRSA §§8104-A, 8104-B, 8104-C and 8104-D are enacted to read:

§8104-A. Exceptions to immunity

Except as specified in section 8104-B, a governmental entity is liable for property damage, bodily injury or death in the following instances.

1. Ownership; maintenance or use of vehicles, machinery and equipment. A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or use of any:

A. Motor vehicle, as defined in Title 29, section 1, subsection 7;

B. Special mobile equipment, as defined in Title 29, section 1, subsection 14;

C. Trailers, as defined in Title 29, section 1, subsection 18;

D. Aircraft, as defined in Title 6, section 3, subsection 5;

E. Watercraft, as defined in Title 12, section 662, subsection 12;

F. Snowmobiles, as defined in Title 12, section 7821, subsection 5; and

G. Other machinery or equipment, whether mobile or stationary.

The provisions of this section do not apply to the sales of motor vehicles and equipment at auction by a governmental entity.

2. Public buildings. A governmental entity is liable for its negligent acts or omissions in the construction, operation or maintenance of any public building or the appurtenances to any public building. Notwithstanding this subsection, a governmental entity is not liable for any claim which results from:

A. The construction, ownership, maintenance or use of:

(1) Unimproved land;

(2) Historic sites, including, but not limited to, memorials, as defined in Title 12, section 601, subsection 1; or

(3) Land, buildings, structures, facilities or equipment designed for use primarily by the public in connection with public outdoor recreation;

B. The ownership, maintenance or use of any building acquired by a governmental entity for reasons of tax delinquency, from the date of foreclosure and until actual possession by the delinquent taxpayer or the taxpayer's lessee or licensee has ceased for a period of 60 days; or

C. The ownership, maintenance or use of any building acquired by a governmental entity by eminent domain or by condemnation until actual possession by the former owner or the owner's lessee or licensee has ceased for a period of 60 days;