

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

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NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

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

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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Medical information obtained pursuant to this section shall remain confidential, except as otherwise provided by law, when involved in proceedings regarding workers' compensation or claims for other benefits.

See title page for effective date.

## CHAPTER 77

H.P. 496 - L.D. 676

### An Act to Provide that Certain Interest and Income Earned May Be Credited to the Maine State Retirement System for Administration

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

**Sec. 1. 5 MRSA §19005, first and 2nd ¶¶**, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

The "~~Contribution Fund~~", "Contribution Fund," as heretofore established, shall consist of and there shall be deposited in ~~such~~ the fund: All contributions, interest and penalties collected under section 19004; all ~~moneys~~ money appropriated thereto under this chapter; any property or securities and earnings thereof acquired through the use of ~~moneys~~ money belonging to the fund; interest earned upon any ~~moneys~~ money 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~~ money received for the fund from any other source. All ~~moneys~~ money in the fund shall be mingled and undivided. Subject to this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all ~~moneys~~ money and property or securities belonging thereto, ~~and~~ The state agency shall invest the fund pursuant to section 17153, subsection 3 and credit all interest and income earned in excess of that needed, for the purposes set forth in this section, to the expense fund of the state agency, to be used to prepare and, if approved by the Legislature, implement a portable and integrated retirement plan for participating local districts and to defray the cost of administration for those districts that participated in the social security system through the Maine State Retirement System. The state agency may perform any and all acts whether or not specifically designated, which are necessary to the administration ~~thereof~~ of the Contribution Fund and are consistent with this chapter.

The Contribution Fund shall be established and held separate and apart from any other funds or ~~moneys~~ money of the State and shall be used and administered exclusively for the purpose of this chapter. ~~Withdrawals~~ Subject to this section, withdrawals from such the 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 section 19003; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

**Sec. 2. Plan preparation.** The Maine State Retirement System shall prepare a portable and integrated

retirement plan for its participating local districts and shall prepare and submit legislation for the implementation of this plan. The legislation shall be submitted no later than December 1, 1990.

See title page for effective date.

## CHAPTER 78

S.P. 270 - L.D. 698

### An Act to Clarify Certain Provisions in the Maine State Retirement System Laws

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

**Sec. 1. 5 MRSA §17851, sub-§1**, as amended by PL 1987, c. 256, §12, is further amended to read:

**1. Member in service.** A member who is in service when ~~he reaches~~ reaching 60 years of age, or is in service after reaching 60 years of age, qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age; and

B. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System; ~~and~~.

**Sec. 2. 5 MRSA §17851, sub-§2**, as amended by PL 1987, c. 256, §13, is further amended to read:

**2. Member not in service.** A member who is not in service when ~~he reaches~~ reaching 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age; and

B. Has at least 10 years of creditable service or 5 full terms as a Legislator, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System; ~~and~~.

**Sec. 3. 5 MRSA §17906, sub-§2, ¶E**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

E. Any dispute about amounts paid or payable under worker's compensation, or about the amount of the lump-sum settlement and its ~~proportion~~ attributions shall be determined on petition, by a single member of the Workers' Compensation Commission, in

accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

**Sec. 4. 5 MRSA §18362** is enacted to read:

**§18362. Teachers in private, parochial and other schools**

**1. Parochial school or public or private academy.**

A member who taught in a parochial school or in a public or private academy may purchase up to 10 years of service credit for that service under the following conditions.

A. The member must have taught in a school approved by the Department of Educational and Cultural Services or the education department of another state while holding an appropriate teaching certificate.

B. The member must have 10 years of creditable service in the retirement system.

C. The member must, before any retirement benefit becomes effective for the member, pay into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount which, together with regular interest on that amount, is the actuarial equivalent, at the effective date for the member's retirement benefit, of the portion of the member's retirement benefit based on the additional creditable service.

**2. Other schools and programs.** A member who terminates service in the State and teaches under the Volunteers in Service to America Program, the Fulbright Exchange Program or the Peace Corps, foreign or domestic, or teaches children of United States Foreign Corps personnel outside the continental limits of the United States is entitled to service credit for that service under the following conditions.

A. The service credit may not exceed 2 years.

B. The member must return to active service as a member of the retirement system within one year of the completion of the teaching outside of the State described in this section.

C. The member must, before any retirement benefit becomes effective for the member, pay into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount which, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of the member's retirement benefit based on the additional creditable service.

**Sec. 5. 5 MRSA §18451, sub-§1**, as amended by PL 1987, c. 256, §36, is further amended to read:

**1. Member in service.** A member who is in service when ~~he reaches~~ reaching 60 years of age, or is in service after reaching 60 years of age, qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age; and

B. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System; ~~and.~~

**Sec. 6. 5 MRSA §18451, sub-§2**, as amended by PL 1987, c. 256, §37, is further amended to read:

**2. Member not in service.** A member who is not in service when ~~he reaches~~ reaching 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age; and

B. Has at least 10 years of creditable service or 5 full terms as a Legislator, which may include creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System; ~~and.~~

**Sec. 7. 5 MRSA §18454**, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

**§18454. Spouse option; no reduction**

A participating local district may, by filing with the board a duly certified copy of its action, provide for all of its employees, in lieu of the benefit provided by section 18404, subsection 1, a benefit in accordance with the following terms and conditions.

**1. Limitation on beneficiary.** Beneficiaries eligible to receive the benefit under this section are limited to a surviving spouse or a dependent child or children.

**2. Payment to retiree.** A retirement benefit based upon section 18404, subsection 1, shall be paid to the retiree during the retiree's lifetime. Upon the death of the retiree, 1/2 of the amount being paid to the retiree shall be paid to the beneficiary the retiree has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the retiree.

**3. Surviving spouse.** If the designated beneficiary is a surviving spouse, the benefit shall continue during the lifetime of the beneficiary.

**4. Dependent child or children.** If the designated beneficiary is a dependent child or dependent children, the benefit shall be paid to the dependent child, or if 2 or more

dependent children are designated beneficiaries, the benefit shall be divided equally among them. When a dependent child ceases to meet the definition of dependent child, the benefit shall be divided among the remaining dependent children or paid to the remaining dependent child. Payment of the benefit shall continue until the remaining dependent child dies or ceases to meet the definition of "dependent child" under section 17001, subsection 12.

**Sec. 8. 5 MRSA §18506, sub-§2, ¶E,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

E. Any dispute about amounts paid or payable under workers' compensation or about the amount of the lump-sum settlement and its ~~proration~~ attributions shall be determined, on petition, by a single member of the Workers' Compensation Commission, in accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

See title page for effective date.

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## CHAPTER 79

S.P. 204 - L.D. 482

### An Act Relating to Benefits for Members of the Maine State Retirement System Who Transfer from Positions Under Special Plans to Positions Not Under Special Plans

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

**Sec. 1. 5 MRSA §17857, sub-§§2 and 3,** as enacted by PL 1985, c. 801, §§5 and 7, are repealed and the following enacted in their place:

**2. Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 17852, subsection 1.

B. A person who retires under a special plan and is later restored to service under section 17855 in a position not under a special plan may earn service credit for additional service retirement benefits.

(1) Upon subsequent retirement, the part of the member's service retirement benefit based upon membership service before the member's initial retirement shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being restored to service shall be computed in accordance with section 17852, subsection 1.

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and shall receive service retirement benefits as follows.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 17852, subsection 1.

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 17901, and on becoming reemployed in a position not under a special plan shall on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled shall be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan shall be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 17901, the member may:

(a) Return to a position under the member's previous special plan; or