

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

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J.S. McCarthy Company
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

of employment after the employee becomes eligible. Each employee shall complete an application for insurance coverage within 31 days of becoming eligible.

A. The employee shall indicate the types of coverage elected.

B. If an application is completed in a timely manner, any coverage in addition to basic becomes effective on the first day of the month following one month of employment after the employee becomes eligible.

C. If an application is not completed within 31 days of the employee's first becoming eligible, the employee may subsequently apply for supplemental and dependent insurance but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter.

Sec. 6. 5 MRSA §18661, sub-§2, ¶A, as amended by PL 1991, c. 480, §12, is further amended to read:

A. On retirement for reasons other than disability, ~~the average an amount of basic life insurance in force for the last 3 years prior to retirement equal to the employee's average final compensation must be continued in force at no cost to the participant, if the participant has participated in the group life insurance program for a minimum of 10 years. For the purpose of determining the average amount of basic insurance in force, there must be excluded from the amount of basic coverage in force during the last 3 years prior to retirement that portion of basic coverage that exceeds the previous year's coverage by 10%.~~

(1) Except as provided in paragraph B, the average initial amount of basic life insurance that continued into retirement must be reduced at the rate of 15% a year to a minimum of 40% of the average initial amount of basic life insurance that continued into retirement or \$2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached.

See title page for effective date.

CHAPTER 387

H.P. 922 - L.D. 1246

An Act to Amend Laws Administered by the Maine State Retirement System

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the need to control the costs of the state retirement system is widely recognized; and

Whereas, unless this legislation is enacted as an emergency measure the development and implementation of plans to control costs may be unnecessarily delayed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 3 MRSA §805, sub-§1, ¶B, as enacted by PL 1985, c. 507, §1, is amended to read:

B. Payment ~~shall~~ must be made upon application and upon termination of service and in not less than 22 days and not more than ~~37~~ 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-2. 4 MRSA §1305, sub-§1, ¶B, as amended by PL 1989, c. 133, §27, is further amended to read:

B. Payment of accumulated contributions ~~shall~~ may not be made earlier than 22 days nor more than ~~37~~ 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-3. 5 MRSA §17001, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

2. Actuarial equivalent. "Actuarial equivalent" means an amount of equal value when computed at an interest rate contained in actuarial assumptions adopted by the board and upon the basis of mortality and service tables adopted by the board. "Actuarial equivalent," when used to indicate the amount that must be paid in order to purchase service credit, means the amount that equals the cost of additional benefits that become payable as a result of the service credit, including, when applicable, the projected cost of a member's earlier eligibility for retirement.

Sec. A-4. 5 MRSA §17103, sub-§12 is enacted to read:

12. Defined contribution plan. The board shall establish a defined contribution plan by July 1, 1994 that is consistent with the requirements of the United States Internal Revenue Code and may be a defined contribution plan for other purposes. The board may establish a separate defined contribution plan or plans for other purposes.

Sec. A-5. 5 MRSA §17105, sub-§2, ¶C is enacted to read:

C. The executive director, with the approval of the board, may delegate the duties and powers given to the executive director by this Part to the retirement system staff.

Sec. A-6. 5 MRSA §17105, sub-§5 is enacted to read:

5. Reporting; simplification and enforcement. The executive director may:

A. Review the retirement system's payroll and other reporting requirements and implement changes that simplify reporting methods or require less frequent filing of reports, provided that a change must not impair the completeness and accuracy of the records necessary for the retirement system's operations or compromise the integrity of the retirement system's funds or operations; and

B. Recommend to the board for adoption under its rule-making authority a schedule of administrative penalties and interest intended to:

(1) Ensure compliance with payroll and other reporting requirements, including, but not limited to, the timely filing of reports and the accuracy of reports and of back-up records of the employer;

(2) Deter actions or omissions by the employer that impair the retirement system's

ability to process accurately and in a timely manner membership and retirement applications, requests for refunds, group life insurance premium payments and claims and to conduct its other functions; and

(3) Deter actions or omissions by the employer that impede or delay the retirement system's efforts to resolve issues related to these matters.

For purposes of this subsection, "employer" means a department or agency of State Government, a school administrative unit or a participating local district.

Sec. A-7. 5 MRSA §17154, sub-§6, ¶E is enacted to read:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapter 606.

Sec. A-8. 5 MRSA §17705, sub-§1, ¶A, as enacted by PL 1987, c. 256, §6, is amended to read:

A. Payment ~~shall~~ must be made after termination of service and not less than 22 days nor more than ~~37~~ 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-9. 5 MRSA §17705, sub-§2, ¶A, as enacted by PL 1987, c. 256, §6, is amended to read:

A. Payment ~~shall~~ must be made after termination of service and not less than 22 days nor more than ~~37~~ 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-10. 5 MRSA §17763, sub-§4 is enacted to read:

4. Alternative. In the determination of the retirement benefit under this Part, if service credit for private or parochial school teaching is not allowed under subsection 1 based upon the member not meeting the requirements of subsection 1, paragraph B or D, additional service credit for private or parochial school teaching is allowed for any member who meets the requirements of subsection 1, paragraphs A and E, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund, by a single direct payment or annual direct payments to the retirement system, an amount that, together with regular interest on that amount, is the actuarial equivalent, at

the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service.

Annual payments must be made in accordance with section 17701, subsection 4.

A. Additional amounts paid under this subsection become a part of the members' accumulated contributions.

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

Sec. A-11. 5 MRSA §17852, sub-§4, ¶A, as amended by PL 1991, c. 580, §6, is further amended to read:

A. For a person qualifying under section 17851, subsection 4, paragraph A:

(1) The total amount of the service retirement benefit is:

(a) Except as provided in division (b), 1/2 of the person's average final compensation and an additional 2% of the person's average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 4, paragraph A; or

(b) If the benefit would be greater, the part of the person's service retirement benefit based upon membership service before July 1, 1976, determined, on a pro rata basis, on the person's current annual salary on the date of retirement and the part of the person's service retirement benefit based upon membership service after June 30, 1976, determined in accordance with division (a); and

(2) Upon the death of a ~~State Police Officer~~ state police officer who is receiving a retirement benefit after qualifying under section 17851, subsection 4, paragraph A, without optional modification, or is retired under article 3 or ~~article 3-A~~, the surviving spouse is entitled to a retirement benefit that is 1/2 of

the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this subparagraph, "surviving spouse" means the person the retired officer was married to at the time of retirement ~~or, if, If the retired officer is divorced or widowed and remarried was not married~~ at the time of retirement or subsequent to retirement was divorced or widowed, the term means the person legally married to the officer at the time of the officer's death.

Sec. A-12. 5 MRSA §17852, sub-§5, ¶B, as amended by PL 1991, c. 580, §7, is further amended to read:

B. Upon the death of a law enforcement officer of the Department of Inland Fisheries and Wildlife who is receiving a retirement benefit after qualifying under section 17851, subsection 5, without optional modification, or is retired under article 3 or ~~article 3-A~~, the surviving spouse is entitled to a retirement benefit that is 1/2 of the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement ~~or, if, If the retired officer is divorced or widowed and remarried was not married~~ at the time of retirement or subsequent to retirement was divorced or widowed, the term means the person legally married to the officer at the time of the officer's death.

Sec. A-13. 5 MRSA §17852, sub-§6, ¶B, as amended by PL 1991, c. 580, §8, is further amended to read:

B. Upon the death of a law enforcement officer of the Department of Marine Resources who is receiving a retirement benefit after qualifying under section 17851, subsection 6, without optional modification, or is retired under article 3 or ~~article 3-A~~, the surviving spouse is entitled to a retirement benefit that is 1/2 of the amount being paid at the time of the officer's death. The payment must continue for the remainder of the surviving spouse's lifetime.

For the purpose of this paragraph, "surviving spouse" means the person the retired officer was married to at the time of retirement ~~or, if, If the retired officer is divorced or widowed and remarried was not married~~ at the time of retirement or subsequent to retirement was divorced or widowed,

the term means the person legally married to the officer at the time of the officer's death.

Sec. A-14. 5 MRSA §17852, sub-§9, as enacted by PL 1985, c. 801, §§5 and 7, is repealed and the following enacted in its place:

9. Liquor inspectors. The total amount of the service retirement benefit for a member qualifying under section 17851, subsection 10 is computed as follows:

A. Except as provided in paragraph B, the total amount of the service retirement benefit is 1/2 of the member's average final compensation and an additional 2% of the member's average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 10; or

B. If the member's service retirement benefit would be greater than the amount provided in paragraph A, the part of the service retirement benefit based on membership service before July 1, 1976 is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based on membership service after June 30, 1976 is determined in accordance with paragraph A.

Sec. A-15. 5 MRSA §18056, sub-§3, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

C. The number of dependents may not effect affect the premium rate for insurance purchased under this subsection.

Sec. A-16. 5 MRSA §18303, sub-§3, ¶C, as enacted by PL 1991, c. 185, §3, is amended to read:

C. May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the ~~school administrative unit~~ participating local district, not to exceed regular interest by 5 or more percentage points.

Sec. A-17. 5 MRSA §18306, sub-§1, ¶A, as enacted by PL 1987, c. 256, §25, is amended to read:

A. Payment shall must be made after termination of service and not less than 22 days nor more than 37 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-18. 5 MRSA §18306, sub-§2, ¶A, as enacted by PL 1987, c. 256, §25, is amended to read:

A. Payment shall must be made after termination of service and not less than 22 days nor more than

37 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

Sec. A-19. 5 MRSA §18362, sub-§1-A is enacted to read:

1-A. Alternative. In the determination of the retirement benefit under this Part, if service credit for private or parochial school teaching is not allowed under subsection 1 based upon the member not meeting the requirements of subsection 1, paragraph B or D, additional service credit for private or parochial school teaching is allowed for any member who meets the requirements of subsection 1, paragraphs A and E, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund by a single direct payment or annual direct payments to the retirement system an amount that, together with regular interest on that amount, is the actuarial equivalent at the effective date of the retirement benefit of the portion of the retirement benefit based on the additional creditable service.

Annual payments must be made in accordance with section 18301, subsection 4.

A. Additional amounts paid under this subsection become a part of the member's accumulated contributions.

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

Sec. A-20. 5 MRSA §18413 is enacted to read:

§18413. Election to reduce or discontinue benefits

Any retiree or member who is retired or will retire may elect to reduce or discontinue receiving any benefit upon written request, duly certified and acknowledged, to the executive director.

Sec. A-21. 5 MRSA §18453, sub-§2, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. If his the member's benefit would be greater, the part of his the service retirement benefit based upon membership service before July 1, 1977, shall be is determined, on a pro rata basis, on his the member's current annual salary on the date of re-

irement or current final compensation, whichever is greater, and the part of his the service retirement benefit based upon membership service after June 30, 1977, ~~shall be~~ is determined in accordance with paragraph A.

Sec. A-22. 5 MRSA §18453, sub-§4, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. If his the member's benefit would be greater, the part of his the service retirement benefit based upon membership service before July 1, 1977, ~~shall be~~ is determined, on a pro rata basis, on his the member's current annual salary on the date of retirement final compensation and the part of his the service retirement benefit based upon membership service after June 30, 1977, ~~shall be~~ is determined in accordance with paragraph A.

Sec. A-23. 5 MRSA §18453, sub-§5, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. If his the member's benefit would be greater, the part of his the service retirement benefit based upon membership service before July 1, 1977, ~~shall be~~ is determined, on a pro rata basis, on his the member's current annual salary on the date of retirement final compensation and the part of his the service retirement benefit based upon membership service after June 30, 1977, ~~shall be~~ is determined in accordance with paragraph A.

Sec. A-24. 5 MRSA §18453, sub-§7, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. If his the member's benefit would be greater, the part of his the service retirement benefit based upon membership service before July 1, 1977, ~~shall be~~ is determined, on a pro rata basis, on his the member's current annual salary on the date of retirement final compensation and the part of his the service retirement benefit based upon membership service after June 30, 1977, ~~shall be~~ is determined in accordance with paragraph A.

Sec. A-25. 5 MRSA §18453, sub-§8, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. If his the member's benefit would be greater, the part of his the service retirement benefit based upon membership service before July 1, 1977, ~~shall be~~ is determined, on a pro rata basis, on his the member's current annual salary on the date of retirement final compensation and the part of his the service retirement benefit based upon membership

service after June 30, 1977, ~~shall be~~ is determined in accordance with paragraph A.

Sec. A-26. 5 MRSA §18656, sub-§3, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

C. The number of dependents may not ~~effect~~ affect the premium rate for insurance purchased under this subsection.

PART B

Sec. B-1. Teacher Retirement Advisory Committee established. The Teacher Retirement Advisory Committee, referred to in this Part as the "advisory committee," is established to study certain issues affecting retirement benefits for teachers and to make recommendations on those issues to the Legislature and the Board of Trustees of the Maine State Retirement System. The board of trustees shall consult with the advisory committee in developing and establishing the defined contribution plan pursuant to the Maine Revised Statutes, Title 5, section 17103, subsection 12.

Sec. B-2. Duties. The advisory committee shall study the issues identified in this section and present its recommendations as specified in this section.

1. The advisory committee shall make recommendations to the Board of Trustees of the Maine State Retirement System on the development of the defined contribution plan established pursuant to the Maine Revised Statutes, Title 5, section 17103, subsection 12. To the greatest extent possible, the defined contribution plan developed must:

A. Offer an attractive and simple benefit to employees;

B. Be flexible enough to accommodate employees whose need to participate in the plan may vary from year to year; and

C. Limit the administrative burden on the local school units.

2. The advisory committee shall make recommendations, including any necessary legislation, on how the costs of retirement benefits can be controlled through more limited definitions of "teacher" and "earnable compensation." In preparing its recommendation, the advisory committee shall consider at least the following:

A. The advisability of implementing the policy regarding the definitions of "teacher" and "earnable compensation" contained in House Paper 215, Legislative Document 283, "An Act Making Unified Appropriations and Allocations for the

Expenditures of State Government General Fund and Other Funds and Changing Certain Provisions of the Law," as originally presented to the First Regular Session of the 116th Legislature;

B. Whether the definition of earnable compensation should make a distinction between extracurricular activities and other stipendiary positions;

C. Whether changes to the definition of teacher or earnable compensation can be made without creating a serious impediment to individuals moving between positions;

D. The advisability of phasing in any recommended change to the definition of "earnable compensation" so that teachers who have been compensated for stipendiary positions for an extended time period including their highest 3 years will be entitled to have those earnings included in average final compensation; and

E. An effective date for any recommended changes that will permit the local school districts to make a smooth transition to participation in the defined contribution plan for any excluded positions or earnings.

Sec. B-3. Membership. The advisory committee consists of the following members:

1. Three members of the Legislature appointed jointly by the President of the Senate and the Speaker of the House of Representatives, of whom one must be from the Joint Standing Committee on Aging, Retirement and Veterans and one must be from the Joint Standing Committee on Education. At least one of the legislative members appointed jointly by the President of the Senate and the Speaker of the House of Representatives must be from the minority party;

2. One member from the Maine Teachers Association, appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

3. One member from the Maine School Management Association, appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

4. One member from the Maine State Retirement System, appointed by its board of trustees;

5. One member from the Department of Education, appointed by the Governor; and

6. One member from the Department of Administrative and Financial Services, appointed by the Governor.

Sec. B-4. Appointment deadline; first meeting. Appointments must be made within 30 days of the effective date of this Part. The advisory committee shall hold its first meeting, called by the Executive Director of the Legislative Council, before August 1, 1993.

Sec. B-5. Report. The advisory committee shall report its preliminary findings, along with any necessary legislation, to the Joint Standing Committee on Aging, Retirement and Veterans no later than November 1, 1993.

Sec. B-6. Staff. The advisory committee may request staffing assistance from the Legislative Council for a period of time that does not coincide with a regular session of the Legislature.

Sec. B-7. Expenses. The legislative members of the advisory committee are entitled to receive expenses and legislative per diem for meetings attended. The Legislative Council shall absorb the costs of the advisory committee within existing resources.

Sec. B-8. Chair. The President of the Senate and the Speaker of the House of Representatives shall appoint jointly a chair from among the legislative members of the advisory committee.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 17, 1993.

CHAPTER 388

H.P. 691 - L.D. 932

An Act to Amend the Laws Relating to Harness Racing

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, harness racing is an important industry in the State, providing jobs and recreational opportunities for the people of this State and visitors to the State; and

Whereas, wagering on harness racing provides funds to maintain the harness racing industry and additional funds for the State through increased tourism and through payment of a portion of the wagered funds to the General Fund; and

Whereas, the live racing season is already underway in the State; and