

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

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January 7, 1998 to March 31, 1998

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

J.S. McCarthy Company
Augusta, Maine
1997

~~and~~ wine, including fortified wines, ~~sold in the State and hard cider~~ and on all low-alcohol spirits products sold in the State by persons licensed to sell wine for consumption on or off the premises. The premium must be in the amount specified in subsection 3.

A. The bureau shall open a premium account with all manufacturers and importing wholesalers.

B. Premiums must be collected in the same manner provided for the collection of excise taxes under sections 1404 and 1405.

C. Premiums must be paid to the bureau by the Maine manufacturer or importing wholesaler.

D. The duties, prohibitions and liabilities under this subsection of licensees and certificate of approval holders are the same as those under sections 1361, 1364, 1404 and 1405.

E. The bureau shall grant credits and make adjustments under this subsection on the same terms and conditions as provided in section 1652.

Sec. 6. 28-A MRSA §1703, sub-§3, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. Ten cents per gallon on all malt beverages and hard cider sold in the State;

See title page for effective date.

CHAPTER 768

H.P. 1473 - L.D. 2072

An Act to Amend the Laws Regarding Sex Offenders

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

Sec. 1. 17-A MRSA §251, sub-§1, ¶F is enacted to read:

F. "Safe children zone" means on or within 1,000 feet of the real property comprising a public or private elementary or secondary school or on or within 1,000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A.

Sec. 2. 17-A MRSA §253, sub-§7 is enacted to read:

7. If the State pleads and proves that a violation of subsection 1 or subsection 2 was committed in a

safe children zone, the court, in determining the appropriate sentence, shall treat this as an aggravating sentencing factor.

Sec. 3. 34-A MRSA §11142, sub-§1, ¶D, as enacted by PL 1995, c. 680, §13, is amended to read:

D. The status of the sex offender when released as determined by the risk assessment instrument, the offender's risk assessment score, a copy of the risk assessment instrument and applicable contact standards for the offender.

See title page for effective date.

CHAPTER 769

H.P. 1513 - L.D. 2135

An Act to Establish a Uniform Special Retirement Plan for State Law Enforcement Personnel, Maine State Prison Personnel, Emergency Personnel, Other Employee Groups That, Prior to September 1, 1984, Had Special Retirement Plans and Certain Emergency Personnel and to Revise the Restoration to Service Requirements

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

Whereas, law enforcement and other related work requires a strong and vigorous work force in order to protect the health and safety of the public; and

Whereas, law enforcement officers and other similar personnel who have been too long on the job place themselves and the public at risk in the daily performance of their jobs; and

Whereas, since 1984, when early retirement plans under the Maine State Retirement System were eliminated for most state law enforcement officers and other similar personnel, most of those employees have been covered by the regular retirement plan for state employees and teachers; and

Whereas, recent changes in the regular retirement plan increasing the retirement age and penalty for early retirement have had the effect of causing state law enforcement officers and other similar personnel to work until age 62, sometimes with as much as 40 years on the job; and

Whereas, other changes in retirement law have resulted in inconsistent treatment of different catego-

ries of law enforcement, corrections, emergency and other related groups of employees; and

Whereas, the current retirement plans for state law enforcement officers and other similar personnel act as a hindrance to recruiting and retaining qualified personnel for state law enforcement, corrections and other related emergency positions; and

Whereas, establishment of a modified regular retirement plan for certain law enforcement, corrections, emergency and other related personnel would provide uniform treatment of similar groups of employees and would provide a useful recruiting tool for the State; 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:

Sec. 1. 5 MRSA §17707-A is enacted to read:

§17707-A. Members in 1998 Special Plan; contributions after June 30, 1998

After June 30, 1998, members to whom one or more of sections 17708 to 17712-B apply and to whom section 17851-A, subsection 1 also applies must contribute to the retirement system or have pick-up contributions made as provided in section 17851-A, subsection 5.

Sec. 2. 5 MRSA §17851, sub-§4, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. ~~Became~~ Except as provided in section 17851-A, became a state police officer after August 31, 1984, and completed 25 years of creditable service as a state police officer.

Sec. 3. 5 MRSA §17851, sub-§5, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

5. Inland Fisheries and Wildlife officers. ~~—A~~ Except as provided in section 17851-A, a law enforcement officer in the Department of Inland Fisheries and Wildlife qualifies for a service retirement benefit if he the officer:

A. Was employed in that capacity before September 1, 1984; and

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection

1, but may not include creditable service under section 17760, subsection 2.

Sec. 4. 5 MRSA §17851, sub-§5-A, as amended by PL 1995, c. 624, §2, is further amended to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984; option. ~~—A~~ Except as provided in section 17851-A, a law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 5-A.

Sec. 5. 5 MRSA §17851, sub-§6, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

6. Marine Resources officers. ~~—A~~ Except as provided in section 17851-A, a law enforcement officer in the Department of Marine Resources qualifies for a service retirement benefit if he the officer:

A. Was employed in that capacity before September 1, 1984; and

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 2.

Sec. 6. 5 MRSA §17851, sub-§6-A, as amended by PL 1995, c. 624, §3, is further amended to read:

6-A. Marine resources officers after August 31, 1984; option. ~~—A~~ Except as provided in section 17851-A, a law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 6-A.

Sec. 7. 5 MRSA §17851, sub-§8, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

8. Forest rangers. ~~—A~~ Except as provided in section 17851-A, a forest ranger in the Department of Conservation qualifies for a service retirement benefit if ~~he~~ the forest ranger:

A. Was employed in that capacity before September 1, 1984; and

B. Retires upon reaching 50 years of age or upon completion of 25 years of creditable service in that capacity, whichever is later.

Sec. 8. 5 MRSA §17851, sub-§8-A, as enacted by PL 1995, c. 624, §4, is amended to read:

8-A. Forest rangers after August 31, 1984; option. ~~—A~~ Except as provided in section 17851-A, a forest ranger in the Department of Conservation who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 7-A.

Sec. 9. 5 MRSA §17851, sub-§§9 and 10, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

9. Airplane pilots. ~~—A~~ Except as provided in section 17851-A, an airplane pilot employed by the State qualifies for a service retirement benefit if ~~he~~ that pilot:

A. Was employed in that capacity before September 1, 1984;

B. Completes at least 25 years of creditable service in that capacity; and

C. Retires upon or after reaching age 55.

10. Liquor inspectors. ~~—A~~ Except as provided in section 17851-A, a liquor inspector, including the chief inspector, qualifies for a service retirement benefit if ~~he~~ that inspector:

A. Was employed in that capacity before September 1, 1984;

B. Completes at least 25 years of creditable service in that capacity; and

C. Retires upon or after reaching age 55.

Sec. 10. 5 MRSA §17851, sub-§11, as amended by PL 1991, c. 857, §2, is further amended to read:

11. Maine State Prison employees. ~~The~~ Except as provided in section 17851-A, the warden or deputy warden of the Maine State Prison, any officer or employee of the Maine State Prison employed as a guard or in the management of prisoners or any person employed as the supervising officer of those officers or employees or as an advocate at the Maine State Prison qualifies for a service retirement benefit if that person:

A. Was employed in one of those capacities before September 1, 1984 and:

(1) Completes 20 years of creditable service in one or more of those capacities; and

(2) Retires upon or after reaching the age of 50 years; or

B. Was employed in one of those capacities after August 31, 1984 and completed 25 years of creditable service in one or more of those capacities.

Notwithstanding any other provision in this section, no person in the employ of the Bangor Pre-Release Center on the effective date of this subsection who would have qualified for a service retirement benefit if the Bangor Pre-Release Center had remained the administrative responsibility of the Maine State Prison may be denied such a benefit by virtue of the transfer of that responsibility to the Charleston Correctional Facility.

Sec. 11. 5 MRSA §17851-A is enacted to read:

§17851-A. 1998 Special Plan established

1. Establishment and applicability. Effective July 1, 1998, there is established a special retirement plan to be known as the 1998 Special Plan. The 1998 Special Plan applies to members in the following capacities:

A. Law enforcement officers in the employment of the Department of Marine Resources on July 1, 1998, or hired thereafter;

B. Law enforcement officers in the employment of the Department of Inland Fisheries and Wildlife on July 1, 1998, or hired thereafter;

C. Forest rangers in the employment of the Department of Conservation on July 1, 1998, or hired thereafter;

D. State police officers to whom section 17851, subsection 4, paragraph B applies, except that

those who elected the retirement choice under section 17852, subsection 4, paragraph C-2 are included only for purposes of subsection 2, paragraph A;

E. Maine State Prison employees to whom section 17851, subsection 11, paragraph B applies;

F. Airplane pilots in the employment of the State on July 1, 1998, or hired thereafter;

G. Liquor inspectors, including the Chief Inspector, in the employment of the Department of Public Safety, Bureau of Liquor Enforcement on July 1, 1998, or hired thereafter; and

H. Firefighters in the employment of the Department of Defense, Veterans and Emergency Management at Bangor International Airport on July 1, 1998, or hired thereafter, provided the Federal Government pays annually to the retirement system the full employer cost of the participation of these employees.

2. Qualification for benefits. A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998, qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

3. Purchase of service credit to be used for qualification for benefits. This subsection governs the use of purchased service credit in order to qualify for benefits.

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998, in any one or a combination of the capacities specified in subsection 1; and

(2) Service credit purchased other than as provided under subparagraph (1), including

but not limited to service credit for military service, is not included.

B. For the purpose of meeting the qualification requirement of subsection 2, paragraph B:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included if the time to which the refund relates was served in any one or a combination of the capacities specified in subsection 1, regardless of whether the time was served before or after the establishment of the 1998 Special Plan; and

(2) Service credit purchased other than as provided under subparagraph (1) is not included, except that service credit purchased for military service is included.

4. Computation of benefits. The amount of the service retirement benefit for members qualified under subsection 2 must be computed as follows:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 or if service credit was purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998 in any one or a combination of the capacities specified in subsection 1, or if service credit was purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including but not limited to service credit for military service, was achieved after June 30, 1998, the benefit must be computed as provided in section 17852, subsection 1. If the member had 10 years of creditable service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 3, paragraphs A and B, and if the member had less than 10 years of creditable service on July 1, 1993, the benefit must be reduced by 6% for each year that the member's age precedes age 55.

B. Except as provided in paragraphs C and D, if some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned before July 1, 1998 and some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998, then the member's service retirement benefit must be computed in segments and the amount of the member's service retirement benefit is the sum of the segments. The segments must be computed as follows:

(1) The segment or, if the member served in more than one of the capacities specified in subsection 1 and the benefits related to the capacities are not interchangeable under section 17856, segments that reflect creditable service earned before July 1, 1998 or purchased by repayment of an earlier refund of accumulated contributions for service before July 1, 1998, in a capacity or capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved before July 1, 1998, must be computed under section 17852, subsection 1. If the member had 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3, paragraphs A and B and, if the member had less than 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3-A; and

(2) The segment that reflects creditable service earned after June 30, 1998, or purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998, in any one or a combination of the capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998, must be computed under section 17852, subsection 1. If the member had 10 years of creditable service on July 1, 1993, the segment amount must be reduced in the manner provided in section 17852, subsection 3, paragraphs A and B for each year that the member's age precedes age 55 and, if the member had less than 10 years of creditable service on July 1, 1993, the segment amount must be reduced by 6% for each year that the member's age precedes age 55.

C. The service retirement benefit of a member who is a state police officer to whom subsection 1, paragraph D applies and who qualifies for service retirement benefits under subsection 2, paragraph B must be computed under section 17852, subsection 1 on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph D regardless whether the creditable service was earned before, on or after July 1, 1998, except that if the mem-

ber had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 4, paragraph C, subparagraphs (1) and (2) and, if the member had less than 10 years of creditable service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 4, paragraph C-1.

D. The service retirement benefit of a member who is a Maine State Prison employee to whom subsection 1, paragraph E applies and who qualifies for service retirement benefits under subsection 2, paragraph B must be computed under section 17852, subsection 1 on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph E regardless whether the creditable service was earned before, on or after July 1, 1998, except that, if the member had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 10, paragraph C, subparagraphs (1) and (2) and, if the member had less than 10 years of creditable service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 10, paragraph C-1.

5. Contributions. Notwithstanding any other provision of subchapter III, after June 30, 1998 a member in the capacities specified in subsection 1 must contribute to the retirement system or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

6. Consequences of participation in retirement plan under section 17851, subsection 5-A, 6-A or 8-A. Notwithstanding any other provision of law, a member in the capacities specified in subsection 1 who, prior to July 1, 1998 elected the retirement option provided in section 17851, subsection 5-A, 6-A or 8-A is treated as follows under the 1998 Special Plan.

A. A member who made the election at the time of first employment in a position covered under section 17851, subsection 5-A, 6-A and 8-A is considered to be a member under the 1998 Special Plan as of the date of hire. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

B. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who

elected to participate in the retirement option prospectively from the time of election is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

C. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, provided that all of the payments required under section 17852, subsection 5-A, 6-A or 7-A are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

Employee contributions and actuarial and administrative costs paid to the retirement system by a member covered by this subsection may not be returned to that member, except that these employee contributions may be refunded to a member who terminates service and requests a refund under section 17705.

Sec. 12. 5 MRSA §17852, sub-§5-A, as amended by PL 1995, c. 624, §5, is further amended by amending the first paragraph to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984; option. The Except as provided in section 17851-A, the retirement benefit of a person who qualifies under section 17851, subsection 5-A and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

Sec. 13. 5 MRSA §17852, sub-§5-B, as enacted by PL 1995, c. 624, §6, is amended by amending the first paragraph to read:

5-B. Inland Fisheries and Wildlife officers exercising option; retirement before 55 years of age. ~~For~~ Except as provided in section 17851-A, for a person exercising the option provided in section

17851, subsection 5-A, who makes the payments required in subsection 5-A, and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

Sec. 14. 5 MRSA §17852, sub-§6-A, as amended by PL 1995, c. 624, §7 is further amended by amending the first paragraph to read:

6-A. Marine resources officers after August 31, 1984; option. ~~The~~ Except as provided in section 17851-A, the retirement benefit of a person qualifying under section 17851, subsection 6-A who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

Sec. 15. 5 MRSA §17852, sub-§6-B, as enacted by PL 1995, c. 624, §8, is amended by amending the first paragraph to read:

6-B. Marine resources officers exercising option; retirement before 55 years of age. ~~For~~ Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 6-A, who makes the payments required in subsection 6-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

Sec. 16. 5 MRSA §17852, sub-§7-A, as enacted by PL 1995, c. 624, §9, is amended by amending the first paragraph to read:

7-A. Forest rangers after August 31, 1984; option. ~~The~~ Except as provided in section 17851-A, the retirement benefit of a person qualifying under section 17851, subsection 8-A who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

Sec. 17. 5 MRSA §17852, sub-§7-B, as enacted by PL 1995, c. 624, §10, is amended by amending the first paragraph to read:

7-B. Forest rangers exercising option; retirement before 55 years of age. ~~For~~ Except as provided in section 17851-A, for a person exercising the option provided in section 17851, subsection 8-A, who makes the payments required in subsection 7-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

Sec. 18. 5 MRSA §17855, first ¶, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

If any recipient of a service retirement benefit is restored to service and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed ~~his~~ the recipient's average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under

section 17806, the excess ~~shall~~ must be deducted from the service retirement benefit payments during the next calendar year, except that beginning January 1, 1999 and thereafter 1/2 the excess must be deducted from the service retirement benefit payments during the next calendar year.

Sec. 19. 5 MRSA §17857, as amended by PL 1993, c. 410, Pt. L, §42, is further amended to read:

§17857. Transfer from special plan

1. Special plan defined. As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsection 4, 5, 6, 7, 8, 9, 10 or 11 and section 17851-A.

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, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, 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~~ must 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~~ must 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~~ must 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~~ must 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. This paragraph does not apply to section 17851-A, subsection 2, paragraph A.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred ~~shall~~ must 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~~ must 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, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, on becoming disabled as defined in section 17901, or, after September 30, 1989, section 17921, and on becoming reemployed in a position not under a special plan ~~shall~~ on retirement ~~receive~~ receives retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled ~~shall~~ must 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~~ must 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, or, after September 30, 1989, section 17921, the member may:

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

(b) Remain in the position ~~which that~~ is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 17852, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 17903 or, after September 30, 1989, section 17926.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit ~~shall~~ must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph shall cease.

3. Reduction of benefits; 10 years of creditable service on July 1, 1993. Upon retirement before reaching age 60, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 ~~shall~~ must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial

retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the retirement must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit ~~shall~~ must be reduced in accordance with section 17852, subsection 3.

3-A. Reduction of benefits; less than 10 years of creditable service on July 1, 1993. On and after July 1, 1993, upon retirement before reaching the age of 62, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 4, paragraph C-1 or section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in ac-

cordance with section 17852, subsection 3-A.

B. If the member was a retiree restored to service subject to subsection 2, paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 4, paragraph C-1 or section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-A.

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A.

D. If the member was transferred subject to subsection 2, paragraph D and:

(1) If the member completes the service or service and age requirements for retirement under the special plan that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 4, paragraph C-1 or section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A.

~~This subsection applies to members who on July 1, 1993 have less than 10 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, section F 6 and Public Law~~

~~1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.~~

This subsection applies to members who on July 1, 1993 have less than 10 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

4. Computation of benefit. The computation of the retirement benefit ~~shall~~ must be based upon the member's average final compensation, as defined in section 17001, subsection 4.

Sec. 20. Maine State Retirement System implementation; legislative intent. This Act creates a uniform special retirement plan for law enforcement officers and certain other similar categories of state employees. The Act establishes 10 years as the minimum number of years of creditable service under the special retirement plan to qualify for retirement benefits at normal retirement age, which is age 55 under the plan. This 10-year requirement is the same as the 10-year requirement under current law governing the regular retirement plan for state employees and teachers under which the normal retirement age is 60 or 62. It is the intent of the Legislature that the retirement system in implementing this Act maintain this requirement at the same number of years for the regular plan and the plan established by this Act. Therefore, if legislation that changes the 10-year requirement under the regular plan is enacted by the Second Regular Session of the 118th Legislature and becomes law, the retirement system is directed to apply that same changed requirement under the plan established in this Act.

Sec. 21. Expenditures in excess of allocations. Expenditures required by this Act of funds other than the General Fund and the Highway Fund are authorized to exceed legislative allocations during the current biennium ending June 30, 1999. Appropriate adjustments to basic work programs facilitating these expenditures in excess of allocations must be

recommended by the State Budget Officer and approved by the Governor.

Sec. 22. Adjustment of rates. The State Budget Officer after consultation with the Maine State Retirement System shall adjust the employer contribution rates on the effective date of this Act to fully fund this Act on an actuarially sound basis.

Sec. 23. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Salary Plan

Personal Services \$160,880

Provides funds to be held in reserve in the event that costs associated with the increase in the normal cost component of the employer contribution rate for retirement costs related to establishing the uniform special plan exceed the amounts available for state departments and agencies. Because the normal cost component of the employer contribution rate for state employees is actuarially established based on projected salaries as a rate that must be applied to actual salaries, the funds resulting from the application of the actuarially established rate constitute appropriated funds. The funds here specified constitute estimates and not appropriated funds.

Sec. 24. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1998-99

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Salary Plan

Personal Services \$45,200

Provides funds to be held in reserve in the event that costs associated with the increase in the normal cost component of the employer contribution rate for retirement costs related to establishing the uniform special plan exceed the amounts available for state departments and agencies. Because the normal cost component of the employer contribution rate for state employees is actuarially established based on projected salaries as a rate that must be applied to actual salaries, the funds resulting from the application of the actuarially established rate constitute appropriated funds. The funds here specified constitute estimates and not appropriated funds.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1998, except that the section of this Act that amends the Maine Revised Statutes, Title 5, section 17855 takes effect January 1, 1999.

Effective July 1, 1998, unless otherwise indicated.

CHAPTER 770

H.P. 1362 - L.D. 1913

**An Act to Clarify the Confidentiality
of Public Employee Information**

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

Sec. 1. 5 MRSA §7070, sub-§2, ¶E, as amended by PL 1997, c. 124, §2, is further amended to read:

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating