

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

3. Employment with 2 employers. Except as provided in section 18056, subsection 3, paragraph D and section 18656, subsection 3, paragraph D, a participant to whom coverage is available under subsection 1 or section 18655, subsection 1 may participate through employment with 2 or more employers.

4. Retirees who return to service. A retiree who is insured pursuant to section 18061, subsection 2 or 18661, subsection 2 and who returns to employment in a position in which the person would be eligible for coverage under subsection 1 is eligible for coverage under subsection 1 only if that person pays the cost of the coverage. This limitation applies regardless of whether similarly employed persons who are not retirees would be required to pay the cost. The board shall establish a method by which such persons may pay the costs of insurance coverage elected under this subsection, which may include basic and supplemental insurance.

See title page for effective date.

CHAPTER 486

H.P. 730 - L.D. 1009

An Act Concerning Retirement Benefits for State Employees

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

Sec. 1. 4 MRSA §1201, sub-§3, as repealed and replaced by PL 1989, c. 133, §15, is amended to read:

3. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as a judge, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest; or

B. The average annualized rate of earnable compensation of a member during the entire period of creditable service if that period is less than 3 years.

If a member took one or more days off without pay during the fiscal year beginning July 1, 2002, as authorized by the State Court Administrator, and the member elects to make the contribution provided for in section 1306, the average final compensation must be determined as if the member had not taken those days off without pay.

Sec. 2. 4 MRSA §1306 is enacted to read:

§1306. Back contribution for certain days off without pay

1. Election. If the Maine Judicial Retirement System determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as described in section 1201, subsection 3, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that person would have made on wages that would have been paid to that person on the days off without pay during the 2002-03 fiscal year as described in section 1201, subsection 3, plus interest at the same rate as that required for payment of back contributions pursuant to Title 5, section 17704, subsection 3. If the member elects to make the payment, the Maine Judicial Retirement System shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the Maine Judicial Retirement System shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year.

Sec. 3. 5 MRSA §17001, sub-§4, ¶A, as amended by PL 1993, c. 410, Pt. RR, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of

emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

Sec. 4. 5 MRSA §17704-B is enacted to read:

§17704-B. Back contributions for certain days off without pay

1. Election. If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments set forth in subsection 2.

2. Payment. The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on wages that would have been paid to that member on the days off without pay during the 2002-03 fiscal year as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for payment of back contributions pursuant to section 17704, subsection 3. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

3. Benefit calculation. If the member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year as provided in section 17001, subsection 4, paragraph A.

Sec. 5. Employee contribution; transition.

A member of the Maine State Retirement System or the Maine Judicial Retirement System who retired before the effective date of this Act may ask the retirement system to determine whether inclusion of the wages from days off without pay as provided in the Maine Revised Statutes, Title 4, section 1201 or Title 5, section 17001, subsection 4, paragraph A would increase that member's retirement benefit. If it would, the retirement system shall allow the retiree to make an election and payments as provided in Title 4, section 1306 or Title 5, section 17704-B. A retiree is not entitled to retroactive payment of any increase in the benefit resulting from inclusion of the days off without pay.

Sec. 6. Special retirement rate assessment. Notwithstanding any other provision of law, the State Budget Officer shall calculate a special retirement rate assessment for all departments and agencies necessary to fund the employer's share of the costs of this legislation, estimated to be \$76,081. The State Budget Officer shall divide the cost by the total salaries and wages paid by state departments and agencies during the time period from July 1, 2003 to September 30, 2003 and apply that percentage as an assessment against all affected accounts so that \$76,081 is available on October 1, 2003 for payment to the Maine State Retirement System.

See title page for effective date.

CHAPTER 487

S.P. 233 - L.D. 669

An Act To Strengthen the Energy Resources Council

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

Whereas, in order to provide adequate time for a study of vital energy-related matters prior to the beginning of the next legislative session, this Act must take effect immediately; 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 §3327, sub-§3, as enacted by PL 2001, c. 630, §1, is amended to read: