

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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THE GENERAL EFFECTIVE DATE FOR
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AUGUST 1, 2018

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

Augusta, Maine
2018

filing of the plan. The department may keep information submitted pursuant to this paragraph confidential as provided under section 1310-B;

G. The manufacturer's consolidator handling option for the next calendar year, as selected in accordance with rules adopted pursuant to subsection 10; and

H. A registration fee paid by a manufacturer as follows:

(1) Seven hundred and fifty dollars for manufacturers with less than 0.1% national market share as determined by the department based on the most recent readily available national market share data; and

(2) Three thousand dollars for all other manufacturers, ~~except that computer monitor and desktop printer manufacturers that have not marketed any covered electronic device in the current calendar year and have had less than 50 units managed by approved consolidators in the preceding 3 years are exempted from paying the fee.~~

A manufacturer's annual registration filed subsequent to its initial registration must clearly delineate any changes in information from the previous year's registration. Whenever there is any change to the information on the manufacturer's registration, the manufacturer shall submit an updated form within 14 days of the change. Registration fees collected by the department pursuant to this subsection must be deposited in the Maine Environmental Protection Fund established in section 351.

Sec. 4. 38 MRSA §1610, sub-§7, as amended by PL 2009, c. 397, §10, is further amended to read:

7. Enforcement; cost recovery. The department must enforce this section in accordance with the provisions of sections 347-A and 349. If a manufacturer fails to pay for the costs allocated to it pursuant to subsection 5, paragraph D, subparagraph (1), ~~including, for a computer monitor manufacturer and a desktop printer manufacturer, its pro rata share of costs attributable to orphan waste,~~ the department may pay a consolidator its legitimate costs from the Maine Solid Waste Management Fund established in section 2201 and seek cost recovery from the nonpaying manufacturer. Any nonpaying manufacturer is liable to the State for costs incurred by the State in an amount up to 3 times the amount incurred as a result of such failure to comply.

The Attorney General is authorized to commence a civil action against any manufacturer to recover the costs described in this subsection, which are in addition to any fines and penalties established pursuant to section 349. Any money received by the State pursuant to this subsection must be deposited in the Maine

Solid Waste Management Fund established in section 2201.

Sec. 5. 38 MRSA §1610, sub-§10, as enacted by PL 2009, c. 397, §11, is amended to read:

10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement, administer and enforce this chapter. The rules must identify the criteria that consolidators must use to determine reasonable operational costs attributable to the handling of ~~computer monitors, video game consoles, televisions and desktop printers~~ covered electronic devices.

See title page for effective date.

CHAPTER 392

H.P. 180 - L.D. 247

An Act To Amend the Retirement Laws Pertaining to Participating Local Districts

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

Whereas, the Participating Local District Advisory Committee has recommended changes to the participating local district retirement plan in order to improve future funding levels, reduce rate volatility and protect member benefits; and

Whereas, this legislation requires the Board of Trustees of the Maine Public Employees Retirement System to adopt rules in order for the changes to take effect; and

Whereas, the changes to the participating local district retirement plan must be in effect prior to July 1, 2018 in order for the actuarial calculations used to establish plan costs for the next fiscal year to be based on the amended plan; 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 §17001, sub-§13, ¶B, as amended by PL 2009, c. 274, §1, is further amended to read:

B. ~~Earnable~~ For members other than members of the Participating Local District Retirement Pro-

gram under chapters 425 and 427, "earnable compensation" does not include:

- (1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;
- (2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave; or
- (3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. 2. 5 MRSA §17001, sub-§13, ¶B-1 is enacted to read:

B-1. "Earnable compensation" does not include any exclusion in the plan provisions adopted by rule pursuant to section 18801.

Sec. 3. 5 MRSA §18252, sub-§6, as repealed and replaced by PL 2009, c. 415, Pt. A, §5, is amended to read:

6. Restoration to service. ¶ Except as provided in section 18457-A, if any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is governed by the following.

A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits.

B. The person may elect to have the service retirement benefit terminated, again become a member of the Participating Local District Retirement Program and begin contributing at the current rate.

(1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time.

C. Upon being restored to service, the person must elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 60 days of restoration to service, the person is deemed to have elected the provisions of paragraph A. The election, regardless of how it is made, is irrevocable during the period of restoration to service.

Sec. 4. 5 MRSA §18302, sub-§3 is enacted to read:

3. Employer contributions to the Participating Local District Consolidated Retirement Plan. The board may establish by rule the rate at which employers who participate in the Participating Local District Consolidated Retirement Plan in accordance with chapter 427 contribute to that plan. Rules established pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

Sec. 5. 5 MRSA §18356, sub-§4 is enacted to read:

4. Treatment of members of the Participating Local District Consolidated Retirement Plan covered by chapter 427. Notwithstanding the provisions of this section, for members of the Participating Local District Consolidated Retirement Plan, the plan provisions adopted by rule pursuant to section 18801 govern any service credit for unused accrued or accumulated sick leave or unused vacation leave.

Sec. 6. 5 MRSA §18407, sub-§7, as amended by PL 2013, c. 588, Pt. E, §3, is repealed and the following enacted in its place:

7. Determination of adjustment for participating local districts covered by chapter 427. The plan provisions adopted by rule pursuant to section 18801 govern any cost-of-living adjustment.

Sec. 7. 5 MRSA §18407, sub-§8, as enacted by PL 2013, c. 391, §8, is repealed.

Sec. 8. 5 MRSA §18452, sub-§3, as amended by PL 2013, c. 391, §11, is further amended to read:

3. Member with creditable service of 25 years or more. The amount of the service retirement benefit for members qualified under section 18451, subsection 3 is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 60 years of age bears to the life annuity due at the age of retirement.

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement is used.

The amount of the service retirement benefit for members qualified under section 18451-A, ~~subsection 2, paragraph C~~ is computed in accordance with subsection 1, except that ~~the benefit is reduced by 6% for each year that the member's age precedes 65 years of age~~ any benefit reduction for retiring prior to 60 years of age for members qualified under section 18451-A, subsection 1 or prior to 65 years of age for members qualified under section 18451-A, subsection 2 must be contained in the plan provisions adopted by rule pursuant to section 18801 that provide for the payment of the full actuarial cost of retiring prior to 60 years of age or 65 years of age as applicable.

Sec. 9. 5 MRSA §18457-A is enacted to read:

§18457-A. Restoration to service

The plan provisions adopted by rule pursuant to section 18801 govern the return of a retiree to employment by an employer participating in the Participating Local District Consolidated Retirement Plan.

Sec. 10. 5 MRSA §18801, first ¶, as repealed and replaced by PL 2009, c. 474, §44, is amended to read:

There is established the Participating Local District Consolidated Retirement Plan as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. The purpose of the Participating Local District Consolidated Retirement Plan is to provide retirement allowances and other benefits under this chapter for employees of participating local districts that contract with the retirement system in accordance with section 18804. The board shall establish by rule the plan provisions of the Participating Local District Consolidated Retirement Plan ~~in accordance with section 18804.~~ Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 5 MRSA §18801, sub-§3, as enacted by PL 1989, c. 811, §3, is amended to read:

3. No reduction of benefits. The level of service retirement benefits for employees of participating local districts that adopt the plan may not be reduced with relation to either benefits based upon service before adoption of the plan or benefits based upon service

after adoption of the plan. As used in this subsection, "level of service retirement benefits" means the service credit accrual rate, the number of years included in the definition of "average final compensation," the age and creditable service requirements for receiving an unreduced benefit and the basic benefit formula of years of creditable service multiplied by the service credit accrual rate and average final compensation.

Sec. 12. 5 MRSA §18804, sub-§7 is enacted to read:

7. Withdrawal from participation. The plan provisions adopted by rule pursuant to section 18801 govern the withdrawal of a local district from participation in the plan and must include withdrawal liability payments by the local district of amounts calculated in an actuarially sound manner and appropriate to protect the funding of the plan and treat members, the withdrawing local district and nonwithdrawing local districts in a fair manner.

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

Effective April 18, 2018.

CHAPTER 393

H.P. 1309 - L.D. 1877

**An Act To Expand and Clarify
the Areas Subject to Municipal
Residency Restrictions for Sex
Offenders**

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

Sec. 1. 30-A MRSA §3014, sub-§2, ¶B, as amended by PL 2013, c. 161, §1, is repealed and the following enacted in its place:

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising:

(1) A public or private elementary, middle or secondary school;

(2) A municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users; or

(3) A municipally owned or state-owned property leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users.

See title page for effective date.
