

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
LABOR**

JULY 1999

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ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION

Summary Of Legislation Before The Joint Standing and Select Committees
August 1999

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER..... *Bill carried over to Second Regular Session*
CON RES XXX..... *Chapter # of Constitutional Resolution passed by both Houses*
CONF CMTE UNABLE TO AGREE..... *Committee of Conference unable to agree; bill died*
DIED BETWEEN BODIES..... *House & Senate disagree; bill died*
DIED IN CONCURRENCE..... *One body accepts ONTP report; the other indefinitely postpones the bill*
DIED ON ADJOURNMENT..... *Action incomplete when session ended; bill died*
EMERGENCY..... *Enacted law takes effect sooner than 90 days*
ENACTMENT FAILED..... *Bill failed to get vote required for enactment or final passage*
NOT PROPERLY BEFORE THE BODY..... *Ruled out of order by the presiding officers; bill died*
INDEF PP..... *Bill Indefinitely Postponed*
ONTP..... *Ought Not To Pass report accepted*
OTP ND..... *Committee report Ought To Pass In New Draft*
OTP ND/NT..... *Committee report Ought To Pass In New Draft/New Title*
P&S XXX..... *Chapter # of enacted Private & Special Law*
PUBLIC XXX..... *Chapter # of enacted Public Law*
RESOLVE XXX..... *Chapter # of finally passed Resolve*
UNSIGNED..... *Bill held by Governor*
VETO SUSTAINED..... *Legislature failed to override Governor's Veto*

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

LD 261 proposed to require the Department of Labor to set up and operate employment offices in the 16 counties of the State and to set up a toll-free telephone number for each office.

Committee Amendment "A" (H-259) proposed to replace the bill and to require the Department of Labor to investigate methods of providing toll-free telephone access to state offices that process claims for unemployment compensation and to report the methods and cost information to the Joint Standing Committee on Labor by November 15, 1999.

Enacted law summary

Resolve 1999, chapter 25 requires the Department of Labor to investigate methods of providing toll-free telephone access to state offices that process claims for unemployment compensation and to report the methods and cost information to the Joint Standing Committee on Labor by November 15, 1999.

LD 267

An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System and to Protect Retirement Benefits Once the Right to those Benefits has Attached

PUBLIC 489

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH KONTOS	OTP-AM	H-652 H-670 HATCH S-431 MICHAUD

LD 267 proposed lowering the vesting period for retirement benefits from 10 to 5 years for state employees, teachers and legislators.

Committee Amendment "A" (H-652) proposed to replace the bill while incorporating elements of the bill and Legislative Documents 14 and 566. The provisions proposed by the amendment would apply to eligibility for, qualification to receive, calculation of and certain other aspects concerning retirement benefits under the Maine State Retirement System for teachers and state employees.

The amendment proposed to establish a set of retirement benefits listed in the amendment as solemn contractual commitments of the State protected under the contract clauses of the Constitution of Maine and United States Constitution once the right to those benefits attaches. Under the amendment, the right to benefits would attach when a member has attained the amount of service credit needed for retirement and, where required, has met the related age requirements. The amendment proposed to reduce the minimum amount of service credit required to qualify for a retirement benefit from the current 10 years to 5 years for employees in service on the effective date, first employed after the effective date and, in certain circumstances, reemployed after the effective date of the bill. Former employees not in service on the effective date who do not later become reemployed would continue to be subject to the 10-year minimum creditable requirement for eligibility and for protection of benefits.

The amendment proposed to protect the following retirement benefits once at least 5 years of service credit have been accumulated:

1. The amount of service credit required for eligibility to receive a benefit upon qualifying to retire;
2. The normal retirement age of 60 or 62 years of age or the age established in a special retirement plan;
3. The amount of service credit required for eligibility to retire before normal retirement age and the related reduction in benefits;

4. The method used to calculate the retirement benefit, including use of the 3 highest years, the 5% and 10% caps on increases in earnings in the 3 highest years and the use of sick or vacation leave when applicable; and
5. The post-retirement waiting period for commencement of cost-of-living adjustments to service retirement benefits.

In addition, the amendment proposed that the employee contribution rate may be increased for members who have achieved protection only to pay for increased benefits or to maintain the actuarial soundness of the retirement system as required by the Constitution of Maine.

Any benefit or related provision not listed in the amendment could be changed or eliminated by the Legislature and the Legislature could change any provision of the retirement law for employees not having the minimum amount of creditable service for eligibility and protection.

This amendment also proposed to add a fiscal note to the bill.

House Amendment "A" to Committee Amendment "A" (H-670) proposed replacing the original fiscal note in order to correctly reflect the impact of the committee amendment by eliminating reference to “accrued” benefits.

Senate Amendment "A" to Committee Amendment "A" (S-431) proposed to strike the General Fund appropriations and Highway Fund allocations included in the original bill. It proposed that appropriated surplus that would otherwise be payable to the Retirement Allowance Fund under the Maine Revised Statutes, Title 5, section 1517, in an amount up to \$2,308,986, be transferred to cover the unfunded liability costs and normal cost increases for teachers.

Enacted law summary

Public Law 1999, chapter 489 reduces the “vesting” period for state employees and teachers from 10 to 5 years and invokes the Contract Clauses of the Maine and United States Constitutions to protect the retirement benefits of those employees once vested.

Chapter 489 is intended to specifically supplant the holding of the United States Court of Appeals for the First Circuit in *Parker v. Wakelin et al.* 123 F.3d 1 (1997) with respect to retirement benefits listed in the law from the time the right to receive those benefits attach. *Parker* held that Maine State Retirement law creates no enforceable private contractual right preventing the modification of members' retirement benefits until those benefits are actually receivable. Chapter 489 establishes the listed benefits as solemn contractual commitments of the State protected under the contract clauses of the Constitution of Maine and United States Constitution once the right to those benefits attaches. The right to benefits attaches when a member has attained the amount of service credit needed for retirement and, where required, has met the related age requirements. The minimum amount of service credit required to qualify for a retirement benefit is reduced from the current 10 years to 5 years for employees in service on the effective date, first employed after the effective date and, in certain circumstances, reemployed after the effective date of the Act. Former employees not in service on the effective date who do not later become reemployed continue to be subject to the 10-year minimum creditable requirement for eligibility and for protection of benefits.

The following retirement benefits are protected once at least 5 years of service credit have been accumulated:

1. The amount of service credit required for eligibility to receive a benefit upon qualifying to retire;
2. The normal retirement age of 60 or 62 years of age or the age established in a special retirement plan;
3. The amount of service credit required for eligibility to retire before normal retirement age and the related reduction in benefits;
4. The method used to calculate the retirement benefit, including use of the 3 highest years, the 5% and 10% caps on increases in earnings in the 3 highest years and the use of sick or vacation leave when applicable; and

5. The post-retirement waiting period for commencement of cost-of-living adjustments to service retirement benefits.

In addition, the employee contribution rate may be increased for members who have achieved protection only to pay for increased benefits or to maintain the actuarial soundness of the retirement system as required by the Constitution of Maine.

Any benefit or related provision not listed in the amendment may be changed or eliminated by the Legislature and the Legislature may change any provision of the retirement law for employees not having the minimum amount of creditable service for eligibility and protection.

To cover the unfunded liability costs and normal cost increases for teachers, the Act provides for the transfer of up to \$2,308,986 of appropriated surplus that would otherwise be payable to the Retirement Allowance Fund under the Maine Revised Statutes, Title 5, section 1517.

LD 277

An Act to Prohibit the Employment of Minors in Places Providing Nude Entertainment

PUBLIC 30

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH	OTP	

Under current law, the Director of the Bureau of Labor Standards is required to establish by rule a list of occupations that are not suitable for minors, including occupations that are hazardous, dangerous to life, health or limb or injurious to morals. LD 277 proposed to require that employment in places having nude entertainment be included in that list.

This bill was submitted on behalf of the Department of Labor.

Enacted law summary

Public Law 1999, chapter 30 requires that places having nude entertainment be included in the list of occupations not suitable for minors. The list is required to be adopted by the Department of Labor.

LD 284

An Act to Increase the Number of Members of the Board of Trustees of the Maine State Retirement System

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FULLER DAGGETT	ONTP	

LD 284 proposed to add one member to the Board of Trustees of the Maine State Retirement System, who must be selected from a list of three nominees submitted by the Maine Association of Retirees. Currently the board consists of 8 members.