

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the Second Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON LABOR

April 2010

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STATE OF MAINE

124TH LEGISLATURE
SECOND REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 124th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

<i>CARRIED OVER</i>	<i>Carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 124th Legislature is Monday, July 12, 2010. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

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disclosure or by abstention found in the Maine Revised Statutes, Title 5, section 18. It removes the two-term restriction to membership on the Workers' Compensation Board.

LD 1582

An Act To Bring the Laws of the Maine Public Employees Retirement System into Compliance with the Federal Internal Revenue Code

PUBLIC 474

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE JACKSON	OTP-AM	H-595

This bill makes changes to the laws governing the qualified defined benefit retirement programs administered by the Maine Public Employees Retirement System to conform them to provisions of the United States Internal Revenue Code. These changes are necessary to ensure the continued qualified status and favorable tax treatment of the defined benefit programs under the Internal Revenue Code, Sections 401(a) and 414(d) and other applicable provisions. The Maine Public Employees Retirement System has received favorable determination letters from the Internal Revenue Service confirming the continued qualification of the Legislative Retirement Program, Judicial Retirement Program, State Employee and Teacher Retirement Program and Participating Local District Retirement Program, subject in part to the adoption of the changes proposed in this bill.

The bill adds language to clarify that applicable retirement programs are intended to be governmental qualified defined benefit plans under the Internal Revenue Code.

The bill amends the respective retirement program statutes to comply with specific Internal Revenue Code requirements that govern certain operational procedures currently in practice but that must be specifically referred to in the written plan document. In addition, the bill amends the respective retirement programs to comply with the provisions of the federal Tax Reform Act of 1986, the federal Unemployment Compensation Amendments of 1992, the federal Omnibus Budget Reconciliation Act of 1993; the federal Uruguay Round Agreements Act, the federal Uniformed Services Employment and Reemployment Rights Act of 1994, the federal Small Business Job Protection Act of 1996, the federal Taxpayer Relief Act of 1997, the federal Internal Revenue Service Restructuring and Reform Act of 1998, the federal Community Renewal Tax Relief Act of 2000 and the federal Economic Growth and Tax Relief Reconciliation Act of 2001. More specifically, the bill:

1. Confirms that a member is 100% vested in the member's contribution account pursuant to the Internal Revenue Code, Section 401(a)(7);
2. Specifies that a forfeiture of a benefit by a member or former member must be used to reduce the unfunded liability of the employer pursuant to the Internal Revenue Code, Section 401(a)(8);
3. Provides that distributions to members must commence no later than the April 1st following the calendar year in which the member attains 70 1/2 years of age pursuant to the Internal Revenue Code, Section 401(a)(9), known as the "required minimum distribution," and must be paid in accordance with the Code;
4. Provides that annual compensation of an eligible member that exceeds \$245,000, adjusted yearly for cost-of-living increases, may not be taken into account in determining benefits or contributions due for any plan year pursuant to the Internal Revenue Code, Section 401(a)(17);
5. Defines what constitutes an eligible retirement plan, an eligible rollover distribution and a member for favorable tax rollovers pursuant to the Internal Revenue Code, Section 401(a)(31);

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6. Specifies how contributions, benefits and service credit with respect to qualified military service must be provided in accordance with the Internal Revenue Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994;
7. Establishes a ceiling on the amount of annual retirement benefits that may be provided to a member pursuant to the Internal Revenue Code, Section 415, currently \$195,000 for a member who has at least 10 years of service and who is at least 62 years of age; and
8. Prohibits the Board of Trustees of the Maine Public Employees Retirement System from engaging in certain transactions pursuant to the Internal Revenue Code, Section 503(b).

The bill authorizes the Board of Trustees of the Maine Public Employees Retirement System to adopt rules necessary to maintain the qualified tax status of the governmental defined benefit retirement plans administered by the Maine Public Employees Retirement System.

The bill amends the waiver provisions of the Legislative Retirement Program to provide that a Legislator is allowed a one-time irrevocable election of whether to join the program. This language is added to comport with various provisions of the Internal Revenue Code, federal treasury regulations and guidance providing that employees in a defined benefit plan or pick-up plan may not have an election with respect to participation or the amount of contributions unless that election is a one-time irrevocable election at the commencement of employment, and that election survives the employee's entire working life with that employer.

The bill provides a maximum automatic refund amount under the existing refund of inactive account statutes pursuant to Internal Revenue Code, Section 401(a)(31)(B).

The bill establishes the employer reporting requirements for employees with optional membership in the State Employee and Teacher Retirement Program and sets forth the responsibilities of the employer in the optional membership election process.

The bill amends the optional membership statutes in the State Employee and Teacher Retirement Program to provide for a one-time irrevocable election and removes all provisions relating to delayed elections and reentry into the plan to comport with federal law.

The bill repeals language related to the purchase of back contributions that is no longer applicable due to the elimination of certain election options.

The bill establishes the conditions under which a person who is a member prior to August 1, 2010 may purchase service credit.

The bill amends the group life insurance program statutes to remove language that is no longer applicable.

The bill amends the optional membership provision in the Participating Local District Retirement Program to provide for a one-time irrevocable election to participate in the program.

The bill provides for a one-time irrevocable election for persons hired by a participating local district with Social Security coverage.

The bill provides for a one-time irrevocable election for persons hired, or rehired, by a participating local district that created an alternative retirement plan prior to the person's hire date. It also provides that an

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employee of a participating local district that creates an alternative plan after the person's date of hire can make a one-time irrevocable election into the alternative plan within 90 days.

The bill amends the conditions under which a member may withdraw accumulated contributions when a participating local district withdraws from the program.

The bill amends the conditions under which the retirement system must refund the assets of a withdrawn participating local district to include that the plan must be terminated in accordance with federal law.

The bill removes language regarding optional members rejoining a program of the retirement system that is no longer applicable.

The bill amends the establishment clause of the Participating Local District Consolidated Retirement Plan to clarify that the plan is intended to be a governmental defined benefit plan and to state the purpose of the plan in a manner consistent with the other Maine Public Employees Retirement System defined benefit retirement programs.

The bill amends the Maine Community College System retirement plan statutes to provide for a one-time irrevocable election into the State Employee and Teacher Retirement Program.

Committee Amendment "A" (H-595)

This amendment incorporates a fiscal note.

Enacted Law Summary

Public Law 2009, chapter 474 makes changes to the laws governing the qualified defined benefit retirement programs administered by the Maine Public Employees Retirement System to conform them to provisions of the United States Internal Revenue Code. These changes are necessary to ensure the continued qualified status and favorable tax treatment of the defined benefit programs under the Internal Revenue Code, Sections 401(a) and 414(d) and other applicable provisions. The Maine Public Employees Retirement System has received favorable determination letters from the Internal Revenue Service confirming the continued qualification of the Legislative Retirement Program, Judicial Retirement Program, State Employee and Teacher Retirement Program and Participating Local District Retirement Program, subject in part to the adoption of the changes proposed in this law.

The law adds language to clarify that applicable retirement programs are intended to be governmental qualified defined benefit plans under the Internal Revenue Code.

The law amends the respective retirement program statutes to comply with specific Internal Revenue Code requirements that govern certain operational procedures currently in practice but that must be specifically referred to in the written plan document. In addition, the law amends the respective retirement programs to comply with the provisions of the federal Tax Reform Act of 1986, the federal Unemployment Compensation Amendments of 1992, the federal Omnibus Budget Reconciliation Act of 1993; the federal Uruguay Round Agreements Act, the federal Uniformed Services Employment and Reemployment Rights Act of 1994, the federal Small Business Job Protection Act of 1996, the federal Taxpayer Relief Act of 1997, the federal Internal Revenue Service Restructuring and Reform Act of 1998, the federal Community Renewal Tax Relief Act of 2000 and the federal Economic Growth and Tax Relief Reconciliation Act of 2001. More specifically, Public Law 2009, chapter 474:

1. Confirms that a member is 100% vested in the member's contribution account pursuant to the Internal Revenue Code, Section 401(a)(7);

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2. Specifies that a forfeiture of a benefit by a member or former member must be used to reduce the unfunded liability of the employer pursuant to the Internal Revenue Code, Section 401(a)(8);
3. Provides that distributions to members must commence no later than the April 1st following the calendar year in which the member attains 70 1/2 years of age pursuant to the Internal Revenue Code, Section 401(a)(9), known as the "required minimum distribution," and must be paid in accordance with the Code;
4. Provides that annual compensation of an eligible member that exceeds \$245,000, adjusted yearly for cost-of-living increases, may not be taken into account in determining benefits or contributions due for any plan year pursuant to the Internal Revenue Code, Section 401(a)(17);
5. Defines what constitutes an eligible retirement plan, an eligible rollover distribution and a member for favorable tax rollovers pursuant to the Internal Revenue Code, Section 401(a)(31);
6. Specifies how contributions, benefits and service credit with respect to qualified military service must be provided in accordance with the Internal Revenue Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994;
7. Establishes a ceiling on the amount of annual retirement benefits that may be provided to a member pursuant to the Internal Revenue Code, Section 415, currently \$195,000 for a member who has at least 10 years of service and who is at least 62 years of age; and
8. Prohibits the Board of Trustees of the Maine Public Employees Retirement System from engaging in certain transactions pursuant to the Internal Revenue Code, Section 503(b).

The law authorizes the Board of Trustees of the Maine Public Employees Retirement System to adopt rules necessary to maintain the qualified tax status of the governmental defined benefit retirement plans administered by the Maine Public Employees Retirement System.

The law amends the waiver provisions of the Legislative Retirement Program to provide that a Legislator is allowed a one-time irrevocable election of whether to join the program. This language is added to comport with various provisions of the Internal Revenue Code, federal treasury regulations and guidance providing that employees in a defined benefit plan or pick-up plan may not have an election with respect to participation or the amount of contributions unless that election is a one-time irrevocable election at the commencement of employment, and that election survives the employee's entire working life with that employer.

The law provides a maximum automatic refund amount under the existing refund of inactive account statutes pursuant to Internal Revenue Code, Section 401(a)(31)(B).

The law establishes the employer reporting requirements for employees with optional membership in the State Employee and Teacher Retirement Program and sets forth the responsibilities of the employer in the optional membership election process.

The law amends the optional membership statutes in the State Employee and Teacher Retirement Program to provide for a one-time irrevocable election and removes all provisions relating to delayed elections and reentry into the plan to comport with federal law.

The law repeals language related to the purchase of back contributions that is no longer applicable due to the elimination of certain election options.

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The law establishes the conditions under which a person who is a member prior to August 1, 2010 may purchase service credit.

The law amends the group life insurance program statutes to remove language that is no longer applicable.

The law amends the optional membership provision in the Participating Local District Retirement Program to provide for a one-time irrevocable election to participate in the program.

The law provides for a one-time irrevocable election for persons hired by a participating local district with Social Security coverage.

The law provides for a one-time irrevocable election for persons hired, or rehired, by a participating local district that created an alternative retirement plan prior to the person's hire date. It also provides that an employee of a participating local district that creates an alternative plan after the person's date of hire can make a one-time irrevocable election into the alternative plan within 90 days.

The law amends the conditions under which a member may withdraw accumulated contributions when a participating local district withdraws from the program.

The law amends the conditions under which the retirement system must refund the assets of a withdrawn participating local district to include that the plan must be terminated in accordance with federal law.

The law removes language regarding optional members rejoining a program of the retirement system that is no longer applicable.

The law amends the establishment clause of the Participating Local District Consolidated Retirement Plan to clarify that the plan is intended to be a governmental defined benefit plan and to state the purpose of the plan in a manner consistent with the other Maine Public Employees Retirement System defined benefit retirement programs.

The law amends the Maine Community College System retirement plan statutes to provide for a one-time irrevocable election into the State Employee and Teacher Retirement Program.

**LD 1595 *An Act To Provide Continued Protection of Benefits for Retirees of the
Maine Public Employees Retirement System***

PUBLIC 473

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E	OTP-AM	S-356

This bill protects retirees of the Maine Public Employees Retirement System from decreases in retirement benefits due to decreases in the Consumer Price Index. This extends, to multiple years, the number of times a cost-of-living adjustment may be made to recapture actuarial gains lost as a result of a decline in the Consumer Price Index. This bill ensures cost neutrality for the unusual case where the Consumer Price Index in any year is not sufficient to compensate for it having been below zero the previous year.

Committee Amendment "A" (S-356)

This amendment incorporates a fiscal note.