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## **An Act To Amend the Laws Relating to the Maine State Retirement System**

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

**Sec. 1. 3 MRSA §752**, as enacted by PL 1985, c. 507, §1, is repealed.

**Sec. 2. 3 MRSA §801, sub-§1**, as amended by PL 2005, c. 516, §1, is further amended to read:

**1. Membership mandatory.** Every Legislator serving in the Legislature on or after December 3, 1986 is a member of the Maine Legislative Retirement System, except that any Legislator who is a member of the Maine State Retirement System on December 2, 1986 may continue to be a member of that system instead of becoming a member of the Maine Legislative Retirement System, and any Legislator who is a public school teacher or an employee of the Maine Community College System on leave of absence for the purpose of serving in the Legislature continues to be a member of the Maine State Retirement System and to have contributions deducted from the member's legislative earnable compensation as provided by Title 5, section 17701. A Legislator who terminates employment from a position requiring membership in the Maine State Retirement System no longer contributes to the Maine State Retirement System and, if qualified, is eligible to become a benefit recipient under Title 5, section 17804. Upon such termination, the Legislator becomes a member of the Maine Legislative Retirement System. ~~No~~Except as provided in section 802, subsection 4, paragraph A, creditable service granted under the Maine State Retirement System may not be transferred to the Maine Legislative Retirement System. A member ceases to be a member when the member withdraws the member's contributions, becomes a beneficiary as a result of the member's own retirement or dies.

**Sec. 3. 3 MRSA §802, sub-§4, ¶A**, as enacted by PL 1985, c. 507, §1, is amended to read:

A. Any member who has not withdrawn ~~his~~the member's accumulated contributions with the Maine State Retirement System and is not a benefit recipient under Title 5, section 17804 may, upon becoming a Legislator, have ~~his~~the member's Maine State Retirement System contributions and membership service transferred to ~~his~~the member's account with the Maine Legislative Retirement System and all creditable service resulting from ~~his~~ membership in the Maine State Retirement System ~~shall be~~is creditable service in the Maine Legislative Retirement System.

All funds in the Maine State Retirement System contributed by the State on account of the member's employment ~~shall~~must be transferred to the Maine Legislative Retirement System and ~~shall~~must be used to liquidate the liability incurred by reason of ~~his~~the member's previous employment. The State shall make ~~such~~ contributions, from time to time, as may be necessary to provide the benefits under the Maine Legislative Retirement System for the member ~~as~~that have accrued to ~~him~~the member by reason of ~~his~~the member's previous employment and may accrue to ~~him~~the member by reason of ~~his~~ membership in the Maine State Retirement System.

**Sec. 4. 4 MRSA §807, sub-§3, ¶M**, as amended by PL 2003, c. 278, §2, is further amended to read:

M. A law enforcement officer, as defined in Title 29-A, section 101, subsection 30, who is not an attorney but who is representing the State in the prosecution of a traffic infraction, as defined in Title 29-A, section 101, subsection 85, when representation in that matter has been approved by the prosecuting attorney; or

**Sec. 5. 4 MRSA §807, sub-§3, ¶N**, as enacted by PL 2003, c. 278, §3, is amended to read:

N. A person who is not an attorney, but is representing the State under section 807-A; or

**Sec. 6. 4 MRSA §807, sub-§3, ¶O** is enacted to read:

O. A person who is not an attorney, but who is representing a party in any hearing, action or proceeding before the Maine State Retirement System.

**Sec. 7. 4 MRSA §1252**, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is repealed.

**Sec. 8. 4 MRSA §1358, sub-§1, ¶B**, as repealed and replaced by PL 1985, c. 693, §11, is amended to read:

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall adjust allowances as set out in paragraph A and shall report the adjustment and the actual increase or decrease in the Consumer Price Index to the Legislature ~~during~~by February 1st of the following year.

**Sec. 9. 4 MRSA §1361, sub-§1**, as amended by PL 1999, c. 744, §6 and as affected by §17, is further amended to read:

**1. Election of benefit for different beneficiary.** The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 1357, subsection 2, paragraph B, C, D or E; and

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

**Sec. 10. 5 MRSA §17103, sub-§7**, as amended by PL 1993, c. 410, Pt. L, §18, is further amended to read:

**7. Administrative and financial decisions.** The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system and direct cash receipts as it considers appropriate,

notwithstanding section 131. Notwithstanding any other provision of law, the board, as the employer of the staff of the retirement system and as the executive body, shall establish policies and make decisions on matters pertaining to the administration and operations of the Maine State Retirement System as an independent agency, including, but not limited to, personnel and payroll, accounting and financial matters, acquisition and disposition of capital assets and data processing. The board may delegate these duties and responsibilities as it considers appropriate. Board policies regarding the operation of its administrative offices must be consistent with ~~the applicable state and federal health and safety requirements and programs of the Bureau of General Services. The Department of Administrative and Financial Services shall provide survivor benefit payroll, retirement payroll and contribution refund services and, at their option, may provide other services under these chapters to the Maine State Retirement System at the request of the board. When the board utilizes the services under these chapters, it shall comply with the requirements and procedures of those services.~~

A. If the decision is related to or results in rules, rules must be adopted as provided in subsection 4.

B. If the decision determines the rights, credits or privileges of an individual member or group of members, the determination is considered an adjudicatory proceeding under chapter 375, subchapter IV4 and may be made only after the giving of notice as required in that subchapter and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. A hearing must be conducted in accordance with chapter 375.

**Sec. 11. 5 MRSA §17105, sub-§1, ¶G,** as enacted by PL 1995, c. 368, Pt. G, §5, is repealed.

**Sec. 12. 5 MRSA §17152, sub-§4,** as amended by PL 1989, c. 409, §§3 and 12, is repealed.

**Sec. 13. 5 MRSA §17152, sub-§5,** as amended by PL 1995, c. 368, Pt. G, §6, is repealed.

**Sec. 14. 5 MRSA §17152, sub-§6,** as amended by PL 1995, c. 368, Pt. G, §6, is repealed.

**Sec. 15. 5 MRSA §17152, sub-§7,** as enacted by PL 1989, c. 409, §§3 and 12, is repealed.

**Sec. 16. 5 MRSA §17154, sub-§1,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

**Sec. 17. 5 MRSA §17154, sub-§4,** as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

**Sec. 18. 5 MRSA §17157, sub-§2,** as amended by PL 1989, c. 95, §2, is repealed.

**Sec. 19. 5 MRSA §17159, sub-§1, ¶A,** as amended by PL 1999, c. 731, Pt. CC, §2, is further amended to read:

A. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section ~~17851-A, subsection 4, section 17852, subsection 3 or 3-A or subsection 10, paragraph C or C-1; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3.~~

**Sec. 20. 5 MRSA §17251,** as amended by PL 1989, c. 409, §§4 and 12, is further amended to read:

## **§ 17251. Establishment**

The Retirement Allowance Fund is established in which ~~shall~~must be accumulated all reserves required for the payment of benefits under this Part, other than reserves in the Members' Contribution Fund, ~~the Survivors' Benefit Fund and the Disability Retirement Benefit Fund.~~

**Sec. 21. 5 MRSA §17253, sub-§1,** as amended by PL 1987, c. 739, §§8 and 48, is further amended to read:

**1. Computation.** The employer contribution rate ~~shall be~~is determined as the percentage of the members' earnable compensation payable during the members' periods of membership required to provide the difference between the total liabilities for retirement allowances, survivors' benefits and disability retirement benefits not provided by the members' accumulated contributions and the amount of the assets in the Retirement Allowance Fund.

**Sec. 22. 5 MRSA c. 421, sub-c. 4, art. 5,** as amended, is repealed.

**Sec. 23. 5 MRSA c. 421, sub-c. 4, art. 6,** as amended, is repealed.

**Sec. 24. 5 MRSA c. 421, sub-c. 4, art. 7,** as amended, is repealed.

**Sec. 25. 5 MRSA c. 421, sub-c. 4, art. 8,** as amended, is repealed.

**Sec. 26. 5 MRSA §17808,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

#### **§ 17808. Payment from certain funds**

All benefits payable under this chapter ~~shall~~must be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund ~~and the Survivors' Benefit Fund~~ or as specifically provided in this chapter.

**Sec. 27. 5 MRSA §17933, sub-§2,** as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

**2. Cost of benefits.** The cost of benefits based upon service credits earned before and during disability ~~shall~~must be charged to the ~~Disability Retirement Benefit~~Retirement Allowance Fund. The cost of benefits based upon service credits earned after becoming reemployed ~~shall~~must be charged to the account of the employer through whom the service credits were earned.

**Sec. 28. 5 MRSA §17953, sub-§6,** as amended by PL 1991, c. 469, §2, is further amended to read:

**6. Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the ~~Survivors' Benefit Fund and the amount of the qualifying member's accumulated contributions in the Retirement Allowance Fund is transferred to the Survivors' Benefit~~Retirement Allowance Fund.

**Sec. 29. 5 MRSA §18360, sub-§2, ¶E,** as amended by PL 2001, c. 114, §5, is further amended to read:

E. Except as provided in paragraph I, a member who served in the armed forces during any federally recognized period of conflict, as defined in Title 37-B, section 504, subsection 4, paragraph A-1, ~~subparagraph (3)~~, is entitled to service credit under this subsection. For purposes of this paragraph, "federally recognized period of conflict" means World War I, April 6, 1917 to November 11, 1918 or to March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; the Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that the United States Government recognizes as the end of the Persian Gulf War.

**Sec. 30. 5 MRSA §18407, sub-§4, ¶B,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase or decrease of 4% and shall report that adjustment and the actual increase or decrease in the Consumer Price Index to the Legislature ~~during the month of~~by February 1st of the following year.

**Sec. 31. 5 MRSA §18409,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

### **§ 18409. Payment from certain funds**

All benefits payable under this chapter ~~shall~~must be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund ~~and the Survivors' Benefit Fund~~ or as specifically provided in this chapter.

**Sec. 32. 5 MRSA §18533, sub-§2,** as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

**2. Cost of benefits.** The cost of benefits based upon service credits earned before and during disability ~~shall~~must be charged to the ~~Disability Retirement Benefit~~Retirement Allowance Fund. The cost of benefits based upon service credits earned after becoming reemployed ~~shall~~must be charged to the account of the employer through whom the service credits were earned.

**Sec. 33. 5 MRSA §18553, sub-§6,** as amended by PL 1991, c. 469, §5, is further amended to read:

**6. Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the ~~Survivors' Benefit Fund~~ and the amount of the qualifying member's accumulated contributions in the ~~Retirement Allowance Fund~~ is transferred to the ~~Survivors' Benefit~~Retirement Allowance Fund.

**Sec. 34. 5 MRSA §18557, sub-§6,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**6. Member contribution.** A participating local district may require each of its members to make a contribution, not to exceed 1/4 of 1% of earnable compensation, ~~to the Survivors' Benefit Fund,~~ as long as ~~heth~~ member is employed.

**Sec. 35. 5 MRSA §18557, sub-§7,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

**7. Payment.** All survivor benefit contributions by participating local districts ~~which~~that have elected survivor benefits and all contributions by members of those districts ~~shall~~must be paid into the ~~Survivors' Benefit~~Retirement Allowance Fund.

**Sec. 36. 5 MRSA §18802-A, sub-§1,** as enacted by PL 1997, c. 12, §1 and as affected by §2, is amended to read:

**1. Composition; designation.** The Participating Local District Advisory Committee, referred to in this chapter as ~~the "advisory"~~the advisory committee," is composed of the following 12 members:

A. Five voting members who are members of labor organizations that represent participating local district employees, ~~appointed by the Governor after being nominated~~duly designated by their respective labor organizations as follows:

(1) One member ~~nominated~~duly designated by the Maine Education Association;

(2) One member ~~nominated~~duly designated by the American Federation of State, County and Municipal Employees;

(3) One member ~~nominated~~duly designated by the Service Employees International Union;

(4) One member ~~nominated~~duly designated by the International Association of Fire Fighters;  
and

(5) One member ~~nominated~~duly designated by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

B. Five voting members who represent participating local districts ~~appointed by the Governor after being nominated~~duly designated as follows:

(1) Three members ~~nominated~~duly designated by the Maine Municipal Association; and

(2) Two members ~~nominated~~duly designated by the Maine School Management Association;

C. One nonvoting member ~~appointed~~designated by the Governor; and

D. The executive director or the executive director's designee, to serve as an ex officio nonvoting member.

**Sec. 37. 5 MRSA §18802-A, sub-§4**, as enacted by PL 1997, c. 12, §1 and as affected by §2, is amended to read:

**4. Term.** The terms of the members are as follows.

A. Each member, ~~except the initial appointees, shall serve~~erves a term of 5 years.

B. A member shall continue to serve after the expiration of that member's term until a qualified successor is ~~appointed~~designated. The member's continuation as a member does not change the expiration of that member's term.

C. The term of a member ~~appointed~~designated to succeed a member whose term has expired expires 5 years after the expiration date of the term of the previous member, regardless of the effective date of the new ~~appointment~~designation. There is no limit to the number of terms to which a member may be ~~appointed~~designated.

D. The ~~appointing~~designating authority shall ~~appoint~~designate a person to fill a vacancy caused by death, resignation or ineligibility within 60 days. This ~~appointment~~designation is for the unexpired portion of the term and must be made from a ~~nomination~~designation provided by the organization the former member represented, as provided by subsection 1. With the agreement of the member being replaced and of the ~~nominating and appointing authorities~~designating authority, the member being replaced shall ~~serve~~erves until a replacement is ~~appointed~~designated. Otherwise, a vacancy exists until a replacement is ~~appointed~~designated.

E. The terms of the initial appointments are as follows.

(1) Members who represent participating local district employees are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

(2) Members who represent participating local districts are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

F. A member is considered to have resigned if:

(1) The member severs the affiliation with the organization that ~~nominated~~designated the member in accordance with subsection 1; or

(2) The member is absent from 3 consecutive meetings of the advisory committee without good cause as determined by the advisory committee.

## SUMMARY

The bill makes the following changes to the laws governing the Maine State Retirement System.

1. It removes language that became obsolete when the retirement system became a public instrumentality in 1993.

2. It clarifies when Maine State Retirement System creditable service may be transferred to the Maine Legislative Retirement System.

3. It amends the laws that govern when the retirement system must report to the Legislature regarding the occurrence of a Consumer Price Index increase that exceeds the statutory cap on cost-of-living adjustments in retirement benefits for retirees from the judicial plan and the participating local district plans.

4. It gives judges the same retirement beneficiary provision as was enacted for other system members by Public Law 2005, chapter 560.

5. It repeals references to health insurance and health insurance funds, in which the retirement system no longer serves a role.

6. It repeals some sections of law and amends other sections that refer to funds that are no longer segregated by the retirement system into separate funds.

7. It clarifies that "early retirement" includes retirement from the 1998 Special Plan prior to reaching the normal retirement age of that plan.

8. It makes clear that the employer contribution rate must support the payment of survivors' benefits and disability retirement benefits. This is not a change but a clarification.

9. It removes an incorrect cross-reference and inserts a definition of "federally recognized period of conflict" for participating local district members that is consistent with that for other retirement system members.

10. It permits an individual to be duly designated as a member of the Participating Local District Advisory Committee by respective constituent groups who formerly made nominations to the Governor. It removes the requirement that those individuals also be appointed by the Governor. It also deletes obsolete requirements pertaining to initial terms of committee members.

11. It provides that the laws governing the unauthorized practice of law do not apply to a person who is not an attorney who is representing a party in any hearing, action or proceeding before the Maine State Retirement System.