



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1396

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H.P. 970

House of Representatives, April 11, 2017

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**An Act To Remove Certain Restrictions Imposed on Retired State  
Employees Who Return to Work as Educators**

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Reference to the Committee on Appropriations and Financial Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STEARNS of Guilford.  
Cosponsored by Representatives: HIGGINS of Dover-Foxcroft, LYFORD of Eddington.

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

2 **Sec. 1. 5 MRSA §17859**, as amended by PL 2015, c. 321, §1, is further amended  
3 to read:

4 **§17859. Retiring and returning to work**

5 **1. Restoration to service.** ~~Any~~ Except for a state employee or teacher under  
6 subsection 1-A, any state employee or teacher who has reached normal retirement age  
7 and who retires after September 1, 2011 may be restored to service for up to 5 years. The  
8 decision to hire a retired state employee or retired teacher under this section is at the  
9 discretion of the appointing authority. The retired state employee or retired teacher must  
10 have had a bona fide termination of employment in accordance with state and federal  
11 laws and rules, may not return to employment after retirement with the same employer  
12 for at least 30 calendar days after the termination of employment and may not return to  
13 employment before the effective date of the person's retirement.

14 **1-A. Restoration to work as classroom-based employees or administrators.**  
15 Effective August 1, 2014, a ~~classroom-based state employee or teacher~~ who has reached  
16 normal retirement age and who retires after September 1, 2011 may be restored to service  
17 as a classroom-based employee or school administrator in a school in the unorganized  
18 territory or with a school administrative unit as defined in Title 20-A, section 1,  
19 subsection 26:

20 A. ~~In one-year contracts, which may be nonconsecutive. The maximum time that a~~  
21 ~~classroom based employee may be restored to service with an individual school~~  
22 ~~administrative unit pursuant to this paragraph is 5 years;~~

23 B. ~~Subject to the 5-year restriction specified in subsection 1 and the 75%~~  
24 ~~compensation limitation for retired state employees and retired teachers specified in~~  
25 ~~subsection 2, paragraph A; or~~

26 C. ~~In any combination of paragraphs A and B, as long as the total time the~~  
27 ~~classroom-based employee is restored to service does not exceed 10 years with an~~  
28 ~~individual school administrative unit.~~

29 D. With the same compensation and health insurance, dental insurance and life  
30 insurance benefits established for the position to be filled; and

31 E. At the same contribution rate of the employer and employee as is required for the  
32 position if the position were filled by an employee who is not a retired state employee  
33 or retired teacher.

34 The retired ~~classroom-based state employee or retired teacher~~ who returns to service  
35 under this subsection must have had a bona fide termination of employment in  
36 accordance with state and federal laws and rules, may not return to employment after  
37 retirement with the same employer for at least 30 calendar days after the termination of  
38 employment and may not return to employment before the effective date of the person's  
39 retirement. The retired state employee or retired teacher who returns to service under this  
40 subsection is not a member and therefore may not accrue additional creditable service or  
41 change the retired state employee's or retired teacher's earnable compensation for benefit

1 calculation purposes. The provisions for health insurance benefits under section 285,  
2 subsection 1-A for retired state employees or Title 20-A, section 13451 for retired  
3 teachers and life insurance benefits under the provisions of section 18055 are suspended  
4 for the reemployment period for a retired state employee or retired teacher who returns to  
5 service under this subsection.

6 For purposes of this section, "classroom-based employee" means a teacher whose  
7 principal function is to introduce new learning to students in the classroom or to provide  
8 support in the classroom during the introduction of new learning to students.

9 **2. Compensation and benefits.** The compensation and benefits of the retired state  
10 employee or retired teacher who returns to service after retirement as set out in subsection  
11 1 is governed by this subsection.

12 A. The compensation of the retired state employee or retired teacher who returns to  
13 service must be set at 75% of the compensation established for the position to be  
14 filled, at a step determined by the appointing authority. The compensation of the  
15 retired classroom-based employee who returns to service as a classroom-based  
16 employee pursuant to subsection 1-A, paragraph A must be set at 100% of the  
17 compensation established for the position to be filled, at a step determined by the  
18 school administrative unit, for up to the maximum 5-year period that a classroom-  
19 based employee may contract with an individual school administrative unit.

20 B. The retired state employee or retired teacher who returns to service under this  
21 section is not a member and therefore may not accrue additional creditable service or  
22 change the retired state employee's or retired teacher's earnable compensation for  
23 benefit calculation purposes.

24 C. During the period of reemployment, the retired state employee or retired teacher  
25 is not entitled to health insurance, dental insurance or life insurance benefits. The  
26 retired state employee or retired teacher is entitled to all other benefits for the  
27 reemployment position under collective bargaining agreements or civil service laws  
28 and rules. Health insurance benefits must be provided under the provisions of section  
29 285, subsection 1-A for retired state employees or Title 20-A, section 13451 for  
30 retired teachers and life insurance benefits must be provided under the provisions of  
31 section 18055.

32 **3. Contributions to the Maine Public Employees Retirement System and state**  
33 **group health plan.** ~~The~~ For a retired state employee or retired teacher under subsection  
34 1-A, the portion of the employer and employee contribution that goes to pay the  
35 retirement system for the unfunded liability and the state group health plan for health care  
36 must be continued and based on the retired state employee's or retired teacher's  
37 compensation as provided under subsection 1-A during the reemployment period. For a  
38 retired state employee or retired teacher under subsection 2, the portion of the employer  
39 contribution that goes to pay the retirement system for the unfunded liability and the state  
40 group health plan for retiree health care must be continued and based on the retired state  
41 employee's or retired teacher's compensation as provided under subsection 2 during the  
42 reemployment period.

1           **4. Notification requirements.** Employers under this section are required to identify  
2 and report to the retirement system, in the manner specified by the retirement system,  
3 each individual who is a retiree who becomes an employee of the employer under the  
4 option provided in this section. Departments shall also report each retiree who becomes  
5 an employee to the Bureau of the Budget in a manner specified by the bureau. The  
6 employer shall report each such employee whenever and so long as the employee is the  
7 employer's employee.

8           **5. Exclusion.** A retired state employee or retired teacher who is hired as a substitute  
9 teacher is not subject to the restoration to service 5-year limitation in subsection 1 or the  
10 compensation limitation in subsection 2, paragraph A.

## 11                         SUMMARY

12           This bill amends the provisions of the Maine Public Employees Retirement System  
13 regarding compensation and service retirement benefits for retired state employees and  
14 retired teachers who return to service as classroom-based employees or school  
15 administrators in the following ways.

16           1. It allows a retired state employee or retired teacher to be restored to service as a  
17 classroom-based employee or school administrator beyond the current 5-year limit.

18           2. It removes the cap of 75% of compensation established for the position that the  
19 state employee or retired teacher is filling.

20           3. It allows a retired state employee or retired teacher who returns to service as a  
21 classroom-based employee or school administrator to receive full retirement, health,  
22 dental and life insurance benefits as offered for the position to be filled and suspends the  
23 provisions of retiree health, dental and life insurance benefits for retired state employees  
24 or retired teachers during the period of reemployment.

25           4. It retains the current provisions that a retired state employee or retired teacher who  
26 returns to service is not a member and therefore may not accrue additional creditable  
27 service or change the retired state employee's or retired teacher's earnable compensation  
28 for benefit calculation purposes.

29           5. It requires full employee and employer contributions to the retirement system for  
30 the unfunded liability and the state group health plan for retiree health care based upon  
31 the retired state employee's or retired teacher's compensation.