

# **LD 247 An Act to Amend the Retirement Laws Pertaining to Participating Local Districts**

## **PROPOSED AMENDMENT (MainePERS)**

**DRAFT**

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

**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,** the Maine Public Employees Retirement System Board of Trustees is required to promulgate rules in order for the plan changes to take effect; and

**Whereas,** the plan changes must be in effect prior to July 1, 2018, in order for 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, paragraph B,** as amended by PL 2009, c. 274, §1, is further amended to read:

B. For members other than members of the Participating Local District Retirement Program under Chapters 425 and 427, “~~e~~arnable 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 or 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;
- (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; or
- (4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

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, paragraph B-1,** is enacted to read:

B-1. The plan provisions adopted pursuant to section 18801 shall contain any exclusion from "earnable compensation" for members of the Participating Local District Consolidated Retirement Plan.

**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 Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which employers who participate in the consolidated plan described in 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. The plan provisions adopted pursuant to section 18801 shall govern any service credit for unused accrued or accumulated sick leave or unused vacation leave for members of the Participating Local District Consolidated Retirement Plan.

Sec. 6. 5 MRSA § 18407, sub-§7, as amended by PL 2013, c. 588, Pt. E, §3, is further amended to read:

**7. Determination of adjustment for participating local districts covered by chapter 427.** The plan provisions adopted pursuant to section 18801 shall govern any cost-of-living adjustment ~~is determined as follows.~~

~~A. Prior to July 1, 2014, the determination of cost of living adjustments for retirees from participating local districts covered by chapter 427 is governed by subsection 4.~~

~~B. Except as provided in paragraph C, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%.~~

~~C. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost neutral for the 2 years, the adjustment needed for the cost neutrality must continue to be applied to following years until such time as the cost neutrality requirement is met.~~

~~D. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 3% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year.~~

~~E. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of retirement or on July 1, 1977, whichever amount is greater.~~

~~8. Eligibility. Cost of living adjustments under subsection 7 must be applied to the retirement benefits of retirees as follows:~~

~~A. For retirees who retire prior to September 1, 2015, a cost of living adjustment is applied if the retiree has been retired for at least 6 months before the date that the adjustment becomes payable.~~

~~B. For retirees who retire on or after September 1, 2015, a cost of living adjustment is applied if the retiree has been retired for at least 12 months before the date that the adjustment becomes payable.~~

~~C. A beneficiary of a deceased retiree or member is eligible for the cost of living adjustment at the same time the deceased retiree or member would have become eligible.~~

Sec. 7. 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 any~~ benefit reduction for retiring prior to age 60 for members qualified under section 18451-A, subsection 1 or prior to age 65 for members qualified under section 18451-A, subsection 2 shall be contained in the plan provisions adopted pursuant to section 18801 ~~is reduced by 6% for each year that the member's age precedes 65 years of age~~ that provide for the payment of the full actuarial cost of retiring prior to age 60 or 65, as applicable.

Sec. 8. 5 MRSA § 18457-A, is enacted to read:

**§ 18457-A. Restoration to Service**

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

**Sec. 9. 5 MRSA § 18801**, as repealed and replaced by PL 2009, c. 474, §44, is further amended to read:

**§ 18801. Plan**

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 established pursuant to this chapter are routine technical rules pursuant to chapter 375, subchapter 2-A.

**Sec. 10. 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. The term “level of service retirement benefits” as used in this subsection 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 accrual rate and average final compensation.

**Sec. 11. 5 MRSA § 18804, sub-§7**, is enacted to read:

**7. Withdrawal from participation.** The plan provisions adopted pursuant to section 18801 shall govern withdrawal of a local district from participation in the plan and shall 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 non-withdrawing local districts fairly.

**SUMMARY**

This amendment replaces the bill. The amendment clarifies the rulemaking authority of the board of trustees of the Maine Public Employees Retirement System to implement changes to the Participating Local District Consolidated Retirement Plan. These changes are based on the recommendations of the Participating Local District Advisory Committee, which is authorized

by statute to provide proposals for changes to the plan to improve future funding levels of the plan. The amendment does the following:

- Make clear that plan provisions that pertain to contribution rates, earnable compensation, service credit for unused sick or vacation leave, cost-of-living adjustments, early retirement reduction, return to work after retirement and withdrawal liability payments that apply to employers and members of the Participating Local District Consolidated Retirement Plan are those adopted pursuant to Title 5, Section 18801.
- Clarifies the meaning of “level of service retirement benefits” as it pertains to permissible changes to service retirement benefits
- Provides guidance for board rulemaking on return to work after retirement and withdrawal liability
- Make clear that the rules pertaining to the Participating Local District Consolidated Retirement Plan are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A