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An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers

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

Sec. 1. 5 MRSA §17851-A, sub-§1, ¶K, as amended by PL 2001, c. 409, §1, is further amended to read:

K. The State Fire Marshal or a state fire marshal investigator or state fire marshal inspector in the employment of the Department of Public Safety on January 1, 2000 or hired thereafter; and

Sec. 2. 5 MRSA §17851-A, sub-§1, ¶L, as amended by PL 2001, c. 646, §1, is further amended to read:

L. Oil and hazardous materials emergency response workers in the employment of the Department of Environmental Protection, Division of Response Services who participate in a standby rotation on January 1, 2002 or are hired thereafter; and

Sec. 3. 5 MRSA §17851-A, sub-§1, ¶M, as enacted by PL 2001, c. 646, §2, is amended to read:

M. Capital security officers in the employment of the Department of Public Safety, Bureau of Capital Security on July 1, 2002 or hired thereafter; and

Sec. 4. 5 MRSA §17851-A, sub-§1, ¶N is enacted to read:

N. Employees of the Department of Health and Human Services as of January 1, 2000 or hired thereafter who are employed in mental health institutions and whose duties involve providing direct care to residents or patients of those institutions or to wards of the State. For purposes of this paragraph, “direct care” means services or treatment essential to everyday security, health and well-being.

Sec. 5. 5 MRSA §17851-A, sub-§2, as repealed and replaced by PL 2003, c. 510, Pt. D, §1 and affected by §§6 and 7, is amended to read:

2. Qualification for benefits. A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to J and K; after June 30, 2002 for employees identified in subsection 1, paragraph M; and any employee identified in subsection 1, paragraphs I, L, and N qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

Sec. 6. 5 MRSA §17851-A, sub-§3, ¶A, as repealed and replaced by PL 2003, c. 510, Pt. D, §2 and affected by §§6 and 7, is amended to read:

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to J~~ I and K; and after June 30, 2002 for employees identified in subsection 1, paragraph M, in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, ~~paragraph~~paragraphs I, L and N regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included.

Sec. 7. 5 MRSA §17851-A, sub-§4, ¶A, as repealed and replaced by PL 2003, c. 510, Pt. D, §3 and affected by §§6 and 7, is amended to read:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to J~~ I and K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when earned for employees identified in subsection 1, paragraphs I and N; if service credit was purchased by repayment of an earlier refund of accumulated contributions for service in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to J~~ I and K; after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when purchased for employees identified in subsection 1, paragraphs I and N; or if service credit was purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1,

paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to J~~ I and K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when earned for employees identified in subsection 1, paragraphs I and N, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced as provided in section 17852, subsection 3, paragraphs A and B.

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. 8. 5 MRSA §17851-A, sub-§4, ¶E, as enacted by PL 2001, c. 409, §5, is amended to read:

E. The service retirement benefit of a member to whom subsection 1, paragraph I, L or N applies and who qualifies for service retirement benefits under subsection 2 must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, paragraph I, L or N, as appropriate, regardless of when that creditable service was earned, except that for a member qualifying under subsection 2, paragraph B:

(1) If the member had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 3, paragraphs A and B for each year the member's age precedes 55 years of age; or

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. 9. 5 MRSA §17851-A, sub-§5, as repealed and replaced by PL 2003, c. 510, Pt. D, §5 and affected by §§6 and 7, is amended to read:

5. Contributions. Notwithstanding any other provision of subchapter 3, after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; and for employees identified in subsection 1, paragraph N, a member in the capacities specified in subsection 1 must contribute to the retirement system or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

Sec. 10. Corrections and Mental Health Workers Service Retirement Benefit Reserve; established. Notwithstanding the Maine Revised Statutes, Title 5, section 1536, there is established in the General Fund the Corrections and Mental Health Workers Service Retirement Benefit Reserve for the purpose of accumulating funds that would otherwise be payable to the Retirement Allowance Fund. The Corrections and Mental Health Workers Service Retirement Benefit Reserve must be used to reserve funds that, at the sole discretion of the Legislature, may be appropriated to meet the full actuarial costs arising from the implementation of those sections of this Act that enact Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5, including normal cost rates for the 6 years following the effective date of this Act. Any funds remaining in the Corrections and Mental Health Workers Service Retirement Benefit Reserve at the end of each fiscal year must be carried forward to be used for the same purposes. Expenditures may not be made from this reserve and appropriations may not be considered to be made to the Retirement Allowance Fund or the Maine State Retirement System from this reserve without a further authorization of the Legislature.

Sec. 11. Funding of Corrections and Mental Health Workers Service Retirement Benefit Reserve. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1536, the following provisions control the transfer of funds that would otherwise qualify for transfer to the Retirement Allowance Fund from unappropriated surplus of the General Fund. Any funds that would otherwise qualify for transfer to the Retirement Allowance Fund under Title 5, section 1536 must instead be transferred to the Corrections and Mental Health Workers Service Retirement Benefit Reserve established in this Act up to the amount certified by the Maine State Retirement System as the full actuarial cost of implementing those sections of this Act that enact Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5, including normal cost rates for the 6 years following the effective date of this Act. Any remaining funds not needed to meet the requirements described in this section must be transferred to the Retirement Allowance Fund for the purposes described in Title 5, section 1536.

Sec. 12. Funding of benefit changes that are effective prospectively after the effective date of this Act and payment of the related normal cost increase in the current and following five years. With respect to an employee's service after September 1, 2007 in a position to which this Act applies, the increase in normal cost contributions resulting from the increased normal cost rate that is necessary to support the changed benefits as they are earned must be estimated by the Maine State Retirement System based on the total payroll for the positions to which this Act applies as of the pay date closest to August 1, 2007. The amount of the increased normal cost contributions must be paid from the funds transferred to the Corrections and Mental Health Workers Service Retirement Benefit Reserve under this Act. The Maine State Retirement System shall pay these increased contributions not later than September 1st of each year through September 1, 2012, each as a single lump sum, reducing the funds held in the Corrections and Mental Health Workers Service Retirement Benefit Reserve by the amount required to fully pay the estimated amount of the increased contributions for the remainder of each respective year and transferring that amount on the books of the system to the general assets of the state employee and teacher retirement plan. After the last payroll of each of the current and following 5 years is paid, the Maine State Retirement System shall reconcile, for each year, the estimated with the required actual amount of the increased contributions, adjusting the reduction of the Corrections and Mental Health Workers Service Retirement Benefit Reserve accordingly. Effective July 1, 2013, the normal cost rate for

the positions to which this Part applies must be adjusted to the normal cost rate determined by the Maine State Retirement System and its actuary to thereafter support the changed benefits as they are earned, to be paid to the Maine State Retirement System in the normal course of payment of retirement contributions.

Sec. 13. Funding of the liability for the increased values of service rendered between August 31, 1984 and September 1, 2013. A retirement service credit related to the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is not due to and may not be given to any employee until the full actuarial cost of the total liability for the increased value of all of that service for all employees to whom this Act applies has been paid. The amount required to pay the full actuarial cost must be accumulated by the Maine State Retirement System through funds provided to it for that purpose. Funds so provided must be held by the Maine State Retirement System in the Corrections and Mental Health Workers Service Retirement Benefit Reserve until the full actuarial cost is accumulated. Funds to be held in the Corrections and Mental Health Workers Service Retirement Benefit Reserve to pay this cost consist of the funds transferred to the Corrections and Mental Health Workers Service Retirement Benefit Reserve under this Act, funds provided thereafter for the same purpose and any investment earnings on the funds, reduced by amounts required to pay the increased normal cost contributions in the current and following 5 years as provided in section 12 of this Act and by any investment losses. Funds in the Corrections and Mental Health Workers Service Retirement Benefit Reserve must be invested by the Maine State Retirement System with the general assets of the state employee and teacher retirement plan and those funds' share of investment earnings and losses must be attributed to the Corrections and Mental Health Workers Service Retirement Benefit Reserve.

The full actuarial cost of the liability for the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is the amount of the liability for the increased value, as calculated by the Maine State Retirement System's actuary, increased by the interest cost that arises because the full cost of the now-increased value of the service already rendered was not paid to the system at the time the service was rendered. Interest costs continue to accrue until the full actuarial cost of the increased value has been accumulated in the Corrections and Mental Health Workers Service Retirement Benefit Reserve and is thereafter transferred on the books of the Maine State Retirement System from the Corrections and Mental Health Workers Service Retirement Benefit Reserve to the general assets of the state employee and teacher retirement plan. If an actuarially significant change in the amount of the liability for the increased value, as determined by the Maine State Retirement System and its actuary, occurs before the full actuarial cost has been accumulated, the full actuarial cost must be increased or decreased accordingly.

Sec. 14. Credit for service rendered between August 31, 1984 and September 1, 2013; contingency. A retirement service credit related to the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is not due to and may not be given to any employee until the Executive Director of the Maine State Retirement System certifies to the Governor, the Commissioner of Corrections and the Commissioner of Health and Human Services that the amount of the full actuarial cost has been accumulated in the Corrections and Mental Health Workers Service Retirement Benefit Reserve and has been transferred on the books of the Maine State Retirement System to the general assets of the state employee and teacher retirement plan, thereby funding the full actuarial costs of the liability for the increased value of that service.

Sec. 15. Contingent effective date; construction. Those sections of this Act that enact the Maine Revised Statutes, Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5 do not take effect unless the Legislature directs payment to the Maine State Retirement System of the full actuarial costs of implementing those sections. The full actuarial costs of those sections must be adjusted upward, if necessary, based upon actuarial projections of the Maine State Retirement System. Those sections of this Act that enact Title 5, section 17851-A, subsection 1, paragraph N and amend Title 5, section 17851-A, subsections 2, 3, 4 and 5 may not be construed to create any contractual claim or right or any other claim for any state employee.

SUMMARY

Contingent upon the full actuarial costs having been accumulated in a reserve of the Maine State Retirement System, this bill adds mental health workers to the 1998 Special Plan for certain Maine State Retirement System members and requires that service retirement benefits for corrections and mental health workers included in the 1998 Special Plan be computed on the basis of all the member's creditable service, regardless of when that service was earned. The bill provides for funding the full actuarial costs of new corrections and mental health worker retirement benefits by creating a reserve and transferring funds to it that would otherwise qualify for transfer to the Retirement Allowance Fund from unappropriated surplus of the General Fund. Transfers continue until the accumulation of funds to cover the full actuarial costs, including normal costs for 6 years, is complete. Under the bill, retirement service credit may not be given and increased benefits may not be paid until the full actuarial costs of the liability for the increased value of that service has been funded.