

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND AND SIXTEEN

—  
H.P. 704 - L.D. 1021

**An Act To Amend the Laws Pertaining to the Maine Public Employees Retirement System**

**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 intent of the Legislature in Public Law 2015, chapter 267, the so-called biennial budget, was to include language permitting members of the Maine Public Employees Retirement System who were subject to a merit pay and longevity pay freeze in fiscal year 2011-12 and fiscal year 2012-13 to include those lost wages in their retirement benefit calculations by paying the necessary member contributions; and

**Whereas**, the language included in Public Law 2015, chapter 267 as enacted inadvertently omitted fiscal year 2011-12; and

**Whereas**, this legislation includes language to correct the error and allow those members affected to receive their full benefit in a more timely manner; 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. 2 MRSA §1-A, sub-§1, ¶D**, as enacted by PL 1985, c. 801, §§1 and 7, is amended to read:

D. Whatever adjustments are made under Title 5, ~~sections section~~ section 17806 and ~~18407~~ shall must be applied to payments made under this section.

**Sec. 2. 5 MRSA §17001, sub-§4, ¶A**, as amended by PL 2009, c. 630, §1, is further amended to read:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009 ~~or~~, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or

**Sec. 3. 5 MRSA §17102, sub-§7**, as amended by PL 2007, c. 240, Pt. U, §5, is repealed and the following enacted in its place:

**7. Expenses.** All administrative costs and expenses attributable to the administrative operating budget of the retirement system must be charged against the assets of the applicable fund.

**Sec. 4. 5 MRSA §17103, sub-§11, ¶C**, as amended by PL 1993, c. 410, Pt. L, §19, is repealed.

**Sec. 5. 5 MRSA §17103, sub-§14**, as enacted by PL 1993, c. 410, Pt. L, §22, is repealed.

**Sec. 6. 5 MRSA §17152, sub-§2**, as corrected by RR 2013, c. 2, §6, is amended to read:

**2. Retirement Allowance Fund.** The Retirement Allowance Fund; ~~and~~

**Sec. 7. 5 MRSA §17152, sub-§3**, as corrected by RR 2013, c. 2, §6, is repealed.

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

**Sec. 9. 5 MRSA §17704-B**, as amended by PL 2015, c. 267, Pt. CCCC, §1, is further amended to read:

**§17704-B. Back contributions for certain days off without pay**

**1. Election.** If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments set forth in subsection 2.

**2. Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

**3. Benefit calculation.** If the member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of the days off without pay and without inclusion of the compensation that otherwise would have been paid if the freezing of merit pay and longevity pay had not occurred during fiscal year 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

**Sec. 10. 5 MRSA §18253, sub-§1, ¶D**, as amended by PL 1995, c. 363, §1 and PL 2007, c. 58, §3, is further amended to read:

D. For the purposes of this subsection, an employee of the Maine Public Employees Retirement System who is a member on January 1, 1994 is considered to be reemployed with a new employer. If an employee returns to state service during the period that begins on July 1, 1995 and ends 180 days after the date upon which the initial collective bargaining agreement between the Maine Public Employees Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, all funds transferred to the account of the Maine Public Employees Retirement System as the new employer on behalf of the employee

from the State's account must be returned to the State's account. For the purpose of service, breaks in service and benefit accruals, the employee must be treated as if the employee had remained in state service throughout the period in question. For purposes of this paragraph, "becomes effective" means that the collective bargaining agreement has been signed and ratified by both parties ~~and approved by the Legislature as provided by section 17103, subsection 14.~~

**Sec. 11. 5 MRSA §18806, sub-§1**, as amended by PL 2007, c. 491, §253, is further amended to read:

**1. Districts with employees covered by the Social Security Act.** A participating local district with employees covered by the United States Social Security Act may provide service retirement benefits for employees not covered by a special plan that equal 1% of the member's average final compensation multiplied by the number of years of membership service. ~~Members~~ The board shall establish by rule the rate at which ~~members~~ covered by this benefit shall contribute to the Participating Local District Retirement Program ~~at the rate of 3% of earnable compensation.~~

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.