



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1659

S.P. 536

In Senate, April 30, 2019

An Act To Include Additional Corrections Officers and Mental Health Workers under the 1998 Special Plan for Retirement and To Amend the Laws Governing Retirement Benefits for Capitol Police Officers

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.

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

2 **Sec. 1. 5 MRSA §17712**, as amended by PL 2007, c. 491, §129, is further
3 amended to read:

4 **§17712. Maine State Prison, Maine Correctional Center, Long Creek Youth**
5 **Development Center, Downeast Correctional Facility, former Mountain**
6 **View Youth Development Center, former Charleston Correctional Facility**
7 **and Mountain View Correctional Facility employees**

8 **1. Before September 1, 1984.** An employee of the Maine State Prison, Maine
9 Correctional Center, Long Creek Youth Development Center, Downeast Correctional
10 Facility, former Mountain View Youth Development Center or former Charleston
11 Correctional Facility who holds a position described in section 17851, subsection 11, and
12 who was first employed in one of those capacities before September 1, 1984, shall
13 contribute to the State Employee and Teacher Retirement Program or have pick-up
14 contributions made by the employer as follows:

15 A. At a rate of 7.5% of earnable compensation until the employee has met the
16 eligibility requirements for retirement under section 17851, subsection 11, paragraph
17 A; and

18 B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of
19 earnable compensation for the remainder of employment in one or more of those
20 capacities.

21 **2. After August 31, 1984.** An employee of the Maine State Prison, Maine
22 Correctional Center, Long Creek Youth Development Center, Downeast Correctional
23 Facility, former Mountain View Youth Development Center, former Charleston
24 Correctional Facility or Mountain View Correctional Facility who was first employed
25 after August 31, 1984, in a position described in section 17851, subsection 11, shall
26 contribute to the State Employee and Teacher Retirement Program or have pick-up
27 contributions made by the employer as follows:

28 A. At a rate of 7.5% of earnable compensation until the employee has completed 25
29 years of creditable service in one or more of those capacities; and

30 B. After completing the service described in paragraph A, at a rate of 6.5% of
31 earnable compensation for the remainder of employment in one or more of those
32 capacities.

33 **Sec. 2. 5 MRSA §17712-A**, as amended by PL 2007, c. 491, §130, is further
34 amended to read:

1 **§17712-A. Maine State Prison, Maine Correctional Center, Long Creek Youth**
2 **Development Center, Downeast Correctional Facility, former Mountain**
3 **View Youth Development Center, former Charleston Correctional Facility**
4 **and Mountain View Correctional Facility employees; members hired after**
5 **July 1, 1992**

6 Notwithstanding section 17712, an employee of the Maine State Prison, Maine
7 Correctional Center, Long Creek Youth Development Center, Downeast Correctional
8 Facility, former Mountain View Youth Development Center, former Charleston
9 Correctional Facility or Mountain View Correctional Facility who holds a position
10 described in section 17851, subsection 11 and who is hired after July 1, 1992 shall
11 contribute to the State Employee and Teacher Retirement Program at a rate of 1% of
12 earnable compensation in addition to the contribution required under section 17712.

13 **Sec. 3. 5 MRSA §17712-B**, as amended by PL 2007, c. 491, §131, is further
14 amended to read:

15 **§17712-B. Maine State Prison, Maine Correctional Center, Long Creek Youth**
16 **Development Center, Downeast Correctional Facility, former Mountain**
17 **View Youth Development Center, former Charleston Correctional Facility**
18 **and Mountain View Correctional Facility employees; contributions on and**
19 **after July 1, 1993**

20 Notwithstanding sections 17712 and 17712-A, on and after July 1, 1993 an employee
21 of the Maine State Prison, Maine Correctional Center, Long Creek Youth Development
22 Center, Downeast Correctional Facility, former Mountain View Youth Development
23 Center, former Charleston Correctional Facility or Mountain View Correctional Facility
24 who holds a position described in section 17851, subsection 11 shall contribute to the
25 State Employee and Teacher Retirement Program or have pick-up contributions made at a
26 rate of 1.15% of earnable compensation in addition to the contributions required under
27 section 17712.

28 **Sec. 4. 5 MRSA §17851, sub-§11**, as amended by PL 2017, c. 148, §1, is further
29 amended to read:

30 **11. Maine State Prison, Maine Correctional Center, Long Creek Youth**
31 **Development Center, Downeast Correctional Facility, former Mountain View Youth**
32 **Development Center, former Charleston Correctional Facility and Mountain View**
33 **Correctional Facility employees.** Except as provided in section 17851-A, the warden
34 or, deputy warden of the Maine State Prison, superintendent, assistant superintendent or
35 any officer or employee of the Maine State Prison, Maine Correctional Center, Long
36 Creek Youth Development Center, Downeast Correctional Facility, former Mountain
37 View Youth Development Center, former Charleston Correctional Facility and Mountain
38 View Correctional Facility employed as a guard or in the management of prisoners or any
39 person employed as the supervising officer of those officers or employees or as an
40 advocate at the Maine State Prison, Maine Correctional Center, Long Creek Youth
41 Development Center, Downeast Correctional Facility, former Mountain View Youth
42 Development Center, former Charleston Correctional Facility and Mountain View
43 Correctional Facility qualifies for a service retirement benefit if that person:

- 1 A. Was employed in one of those capacities before September 1, 1984 and:
2 (1) Completes 20 years of creditable service in one or more of those capacities;
3 and
4 (2) Retires upon or after reaching the age of 50 years; or
5 B. Was employed in one of those capacities after August 31, 1984 and before
6 January 1, 2000 and completed 25 years of creditable service in one or more of those
7 capacities.

8 Notwithstanding any other provision in this section, no person in the employ of the
9 Bangor Pre-Release Center on August 4, 1988 who would have qualified for a service
10 retirement benefit if the Bangor Pre-Release Center had remained the administrative
11 responsibility of the Maine State Prison may be denied such a benefit by virtue of the
12 transfer of that responsibility to the former Charleston Correctional Facility.

13 A person in the employ of the Bangor Pre-Release Center to whom paragraph A applies
14 and who is employed at the Bangor Pre-Release Center on June 30, 2000 remains covered
15 under paragraph A notwithstanding the closing of the Bangor Pre-Release Center if the
16 person is thereafter and without a break in service employed in a capacity to which this
17 subsection or section 17851-A, subsection 1, paragraph I applies or if not thereafter
18 employed in such a capacity but having qualified at the time of the closing of the Bangor
19 Pre-Release Center for retirement under paragraph A, retires then or at a later time.

20 **Sec. 5. 5 MRSA §17851-A, sub-§1, ¶E**, as amended by PL 1999, c. 493, §4, is
21 further amended to read:

22 E. Maine State Prison, Maine Correctional Center, Long Creek Youth Development
23 Center, Downeast Correctional Facility, former Mountain View Youth Development
24 Center, former Charleston Correctional Facility or Mountain View Correctional
25 Facility employees to whom section 17851, subsection 11, paragraph B applies and
26 who were employed after August 31, 1984 and before January 1, 2000;

27 **Sec. 6. 5 MRSA §17851-A, sub-§1, ¶K**, as amended by PL 2001, c. 409, §1, is
28 further amended to read:

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

32 **Sec. 7. 5 MRSA §17851-A, sub-§1, ¶L**, as amended by PL 2001, c. 646, §1, is
33 further amended to read:

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

37 **Sec. 8. 5 MRSA §17851-A, sub-§1, ¶M**, as enacted by PL 2001, c. 646, §2 and
38 amended by PL 2009, c. 317, Pt. E, §§15 and 16, is further amended to read:

39 M. Capitol Police officers in the employment of the Department of Public Safety,
40 Bureau of Capitol Police on July 1, 2002 or hired thereafter; ~~and~~

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Sec. 9. 5 MRSA §17851-A, sub-§1, ¶N is enacted to read:

N. Persons in the employment of the Department of Health and Human Services on January 1, 2000 or hired thereafter under the office of aging and disability services or who provide direct care to wards of the State or in mental health institutions to residents or patients of those institutions. For purposes of this paragraph, "direct care" means services or treatment essential to everyday security, health and well-being.

Sec. 10. 5 MRSA §17851-A, sub-§2, as amended by PL 2017, c. 439, §1, is further 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; any employee identified in subsection 1, paragraph ~~M~~ I; and any employee identified in subsection 1, ~~paragraph~~ paragraphs L, M 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. 11. 5 MRSA §17851-A, sub-§3, ¶A, as amended by PL 2017, c. 439, §2, is further 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; and after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to~~ J and K 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, paragraphs L, L and, M 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. 12. 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:

1 A. If all of the member's creditable service in any one or a combination of the
2 capacities specified in subsection 1 was earned after June 30, 1998 and before
3 September 1, 2002 for employees identified in subsection 1, paragraphs A and B;
4 after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after
5 December 31, 1999 for employees identified in subsection 1, paragraphs ~~I to J~~ J and K;
6 after December 31, 2001 for employees identified in subsection 1, paragraph L; and
7 ~~after June 30, 2002 for employees identified in subsection 1, paragraph M~~ regardless
8 of when earned for employees identified in subsection 1, paragraphs I, M and N; if
9 service credit was purchased by repayment of an earlier refund of accumulated
10 contributions for service in any one or a combination of the capacities specified in
11 subsection 1 after June 30, 1998 and before September 1, 2002 for employees
12 identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees
13 identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees
14 identified in subsection 1, paragraphs ~~I to J~~ J and K; after December 31, 2001 for
15 employees identified in subsection 1, paragraph L; and ~~after June 30, 2002 for~~
16 ~~employees identified in subsection 1, paragraph M~~ regardless of when purchased for
17 employees identified in subsection 1, paragraphs I, M and N; or if service credit was
18 purchased by other than the repayment of an earlier refund and eligibility to make the
19 purchase of the service credit, including, but not limited to, service credit for military
20 service, was achieved after June 30, 1998 and before September 1, 2002 for
21 employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for
22 employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for
23 employees identified in subsection 1, paragraphs ~~I to J~~ J and K; after December 31,
24 2001 for employees identified in subsection 1, paragraph L; and ~~after June 30, 2002~~
25 ~~for employees identified in subsection 1, paragraph M~~ regardless of when achieved
26 for employees identified in subsection 1, paragraphs I, M and N, the benefit must be
27 computed as provided in section 17852, subsection 1, paragraph A.

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

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

34 **Sec. 13. 5 MRSA §17851-A, sub-§4, ¶D,** as repealed and replaced by PL 2001,
35 c. 409, §5, is further amended to read:

36 D. The service retirement benefit of a member who is a Maine State Prison, Maine
37 Correctional Center, Long Creek Youth Development Center, Downeast Correctional
38 Facility, former Mountain View Youth Development Center, former Charleston
39 Correctional Facility or Mountain View Correctional Facility employee to whom
40 subsection 1, paragraph E applies, and who qualifies for service retirement benefits
41 under subsection 2, paragraph B, must be computed under section 17852, subsection
42 1, paragraph A on the basis of all of the member's creditable service in the capacity
43 specified in subsection 1, paragraph E regardless of whether the creditable service
44 was earned before, on or after July 1, 1998, except that:

1 (1) If the member had 10 years of service on July 1, 1993, the benefit must be
2 reduced as provided in section 17852, subsection 10, paragraph C, subparagraphs
3 (1) and (2); or

4 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,
5 the benefit must be reduced as provided in section 17852, subsection 10,
6 paragraph C-1.

7 **Sec. 14. 5 MRSA §17851-A, sub-§4, ¶E**, as enacted by PL 2001, c. 409, §5, is
8 amended to read:

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

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

18 (2) If the member had fewer than 10 years of creditable service on July 1, 1993,
19 the benefit must be reduced by 6% for each year that the member's age precedes
20 55 years of age.

21 **Sec. 15. 5 MRSA §17851-A, sub-§5**, as amended by PL 2007, c. 491, §157, is
22 further amended to read:

23 **5. Contributions.** Notwithstanding any other provision of subchapter 3, after June
24 30, 1998 and before September 1, 2002 for employees identified in subsection 1,
25 paragraphs A and B; after June 30, 1998 for employees identified in subsection 1,
26 paragraphs C to H; after December 31, 1999 for employees identified in subsection 1,
27 paragraphs I to K; after December 31, 2001 for employees identified in subsection 1,
28 paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph
29 M; and for employees identified in subsection 1, paragraph N, a member in the capacities
30 specified in subsection 1 must contribute to the State Employee and Teacher Retirement
31 Program or have pick-up contributions made at the rate of 8.65% of earnable
32 compensation until the member has completed 25 years of creditable service as provided
33 in this section and at the rate of 7.65% thereafter.

34 **Sec. 16. 5 MRSA §17852, sub-§10**, as amended by PL 1993, c. 410, Pt. L, §§40
35 and 41, is further amended to read:

36 **10. Maine State Prison, Maine Correctional Center, Long Creek Youth**
37 **Development Center, Downeast Correctional Facility, former Mountain View Youth**
38 **Development Center, former Charleston Correctional Facility and Mountain View**
39 **Correctional Facility employees.** The amount of the service retirement benefit for
40 members qualified under section 17851, subsection 11, ~~shall be~~ is computed as follows.

1 A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of
2 ~~his the member's~~ average final compensation and an additional 2% of ~~his the~~
3 ~~member's~~ average final compensation for each year of membership service not
4 included in determining qualification under section 17851, subsection 11, paragraph
5 A.

6 B. For members who qualify under section 17851, subsection 11, paragraph B, and
7 who retire upon or after reaching the age of 55, the retirement benefit ~~shall be~~ is
8 computed in accordance with subsection 1.

9 C. For members who qualify under section 17851, subsection 11, paragraph B, and
10 who retire before reaching the age of 55, the retirement benefit is determined in
11 accordance with subsection 1, except that:

12 (1) The amount arrived at under subsection 1 is reduced by applying to that
13 amount the percentage that a life annuity due at age 55 bears to the life annuity
14 due at the age of retirement; and

15 (2) For the purpose of making the computation under subparagraph (1), the
16 board-approved tables of annuities in effect at the date of the member's retirement
17 is used.

18 This paragraph applies to members who, on July 1, 1993, have 10 years of creditable
19 service. For the purpose of calculating creditable service under this subsection only,
20 creditable service includes time during which a member participated in the voluntary
21 cost savings plan or the voluntary employee incentive program, authorized by Public
22 Law 1989, chapter 702, Part F, section ~~F-6~~ 6 and Public Law 1991, chapter 591, Part
23 BB and chapter 780, Part VV, or 10 years of combined creditable service under this
24 Part and Title 3, chapter 29, or creditable service available to a member that the
25 member was eligible to purchase on June 30, 1993 and that the member does
26 purchase in accordance with rules adopted by the board.

27 C-1. For persons qualifying under section 17851, subsection 11, paragraph B, and
28 who retire before reaching the age of 55, the retirement benefit is determined in
29 accordance with subsection 1, except that the benefit is reduced by 6% for each year
30 that the member's age precedes age 55.

31 This paragraph applies to members who, on July 1, 1993, do not have 10 years of
32 creditable service.

33 **SUMMARY**

34 This bill adds employees of the office of aging and disability services and mental
35 health workers who work with wards of the State or in mental health institutions within
36 the Department of Health and Human Services and employees of the Maine Correctional
37 Center, Long Creek Youth Development Center, Downeast Correctional Facility, former
38 Mountain View Youth Development Center, former Charleston Correctional Facility and
39 Mountain View Correctional Facility to the 1998 Special Plan for certain Maine Public
40 Employees Retirement System members and requires that service retirement benefits for
41 corrections and mental health workers and Capitol Police officers in the employment of
42 the Department of Public Safety included in the 1998 Special Plan be computed on the

- 1 same basis as benefits for other members under the plan are computed; creditable service
- 2 is included regardless of when that service was earned.