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APPROPRIATIONS AND FINANCIAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 704, L.D. 1021, Bill, "An Act To Amend the Laws Pertaining to the Maine Public Employees Retirement System"

Amend the bill by inserting after the title and before the enacting clause 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 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,'

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

'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

COMMITTEE AMENDMENT

1 agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the
2 Executive Department and the American Federation of State, County and Municipal
3 Employees, Council 93, time off without pay pursuant to the agreement of June 11,
4 1993 between the Executive Department and the Maine State Employees Association,
5 days off without pay as authorized by legislative action or days off without pay
6 resulting from any executive order declaring or continuing a state of emergency
7 relating to the lack of an enacted budget document for fiscal years ending June 30,
8 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in
9 section 17704-B, as a result of days off without pay or for days worked for which the
10 level of pay is reduced as the result of the freezing of merit pay and longevity pay as
11 authorized by legislative action, by the State Court Administrator or from executive
12 order for the fiscal year beginning July 1, 2002, July 1, 2009 ~~or~~, July 1, 2010, July 1,
13 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off
14 without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June
15 30, 1993, as a result of actions taken by local school administrative units to offset
16 school subsidy reductions, or, if a member is subject to days off without pay during
17 the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a
18 local school administrative unit and the member elects to make the payments as set
19 forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a
20 participating local district to offset reductions in municipal revenue sharing or a
21 combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or,
22 if a member is subject to days off without pay during the fiscal year beginning July 1,
23 2009 or July 1, 2010, as a result of actions of a participating local district and the
24 member elects to make the payments as set forth in section 18305-C, the 3-year
25 average final compensation must be determined as if the member had not been
26 temporarily laid off, reduced in pay or provided days off without pay; or'

27 Amend the bill by striking out all of section 5.

28 Amend the bill by striking out all of sections 11, 12 and 13 and inserting the
29 following:

30 '**Sec. 11. 5 MRSA §17704-B**, as amended by PL 2015, c. 267, Pt. CCCC, §1, is
31 further amended to read:

32 **§17704-B. Back contributions for certain days off without pay**

33 **1. Election.** If the retirement system determines at the time a member retires that the
34 member's benefit would be increased as a result of the inclusion of compensation that
35 would have been paid for days off without pay or for days worked for which the level of
36 pay is reduced as the result of the freezing of merit pay and longevity pay in fiscal year
37 2002-03, 2009-10, 2010-11, 2011-12 or 2012-13, or a combination thereof, as provided in
38 section 17001, subsection 4, paragraph A, the retirement system shall advise the member
39 of that result and shall allow the member to elect to have that compensation included in
40 the calculation of the member's benefit and to make payments set forth in subsection 2.

41 **2. Payment.** The amount that a member who makes the election permitted in
42 subsection 1 must pay is the amount equal to the employee contribution that member
43 would have made on compensation that would have been paid to that member on the days
44 off without pay or for days worked for which the level of pay is reduced as the result of

1 the freezing of merit pay and longevity pay during fiscal year 2002-03, 2009-10, 2010-11,
2 2011-12 or 2012-13, or a combination thereof, as provided in section 17001, subsection
3 4, paragraph A, plus interest at a rate, to be set by the board, not to exceed regular interest
4 by 5 or more percentage points. Interest must be computed beginning at the end of the
5 year when those contributions or pick-up contributions would have been made to the date
6 of payment. If the member elects to make the payment, the retirement system shall
7 withhold the required amount from the member's first retirement benefit check.

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

15 Amend the bill by adding before the summary the following:

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

18 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
19 section number to read consecutively.

20 SUMMARY

21 This amendment removes the provisions in the bill that clarify the authority and
22 responsibilities of the Board of Trustees of the Maine Public Employees Retirement
23 System with respect to eligibility and membership issues that arise in the context of the
24 Participating Local District Retirement Program.

25 This amendment also corrects an oversight in Public Law 2015, chapter 267, Part
26 CCCC. The intent of the legislation was to permit members who were subject to a merit
27 pay and longevity pay freeze in fiscal year 2011-12 and fiscal year 2012-13 to include
28 those lost wages in their retirement benefit calculations by paying the necessary member
29 contributions. As enacted, the legislation inadvertently omitted fiscal year 2011-12.

30 This amendment adds an emergency preamble and emergency clause to the bill.