

Date: May 2, 2025

To: Senator Henry Ingwersen, Senate Chair  
Representative Michele Meyer, House Chair  
Members, Joint Standing Committee on Health and Human Services

From: Bill Brown, Director of Actuarial and Legislative Affairs

Subject: LD 1720, An Act Regarding Benefits and Training for Long-term Care Workers

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Senator Ingwersen, Chair Meyer and the other distinguished members of the Joint Standing Committee on Health and Human Services. I am Bill Brown, Director of Actuarial and Legislative Affairs for the Maine Public Employees Retirement System (MainePERS).

MainePERS submits this testimony neither for nor against LD 1720, An Act Regarding Benefits and Training for Long-term Care Workers, as we understand that the sponsor intends to amend the bill to remove references to MainePERS. We are available to answer questions and provide any assistance the committee may request.

As drafted, the bill seeks to expand the membership of the retirement system in a way that could put the plan at risk of being out of compliance with federal law. The defined benefits plans administered by MainePERS receive favorable tax treatment as long as they comply with the requirements for a qualified governmental plan under the Internal Revenue Code as interpreted by the Internal Revenue Service (IRS).

LD 1720 proposes providing participation for certain workers in long-term care facilities in MainePERS. Some long-term care workers already participate as part of their employment as public employees, such as staff at the Barron Center in Portland. Entities like the City of Portland meet the current definition of a local district and are eligible to participate in a MainePERS retirement plan.

We understand however that many long-term care workers are employed by private employers. Providing participation to private sector employees would raise federal compliance issues regarding non-governmental employees participating in a governmental pension plan.

In response to a similar bill last session we consulted with our outside pension counsel, who confirmed that permitting additional private sector participation presents a compliance risk to the plan. The federal Department of Labor (DOL) has issued guidance that a *de minimis* number of private sector employees can participate without jeopardizing the plan's governmental status.

Examples of what they have considered to be *de minimis* are 300 private sector employees out of 25,000 total employees; 253 out of 183,000; and 224 out of 10,987. However, the IRS has not stated that a *de minimis* amount of private sector participation is acceptable. Since they have not issued any regulations or guidance on this question, it is possible that the IRS would not permit any private sector employees in a governmental plan.

Because of this compliance risk, MainePERS has for many years said that new private sector employers cannot join our plans. There are existing private sector participants for historic reasons, so even if a *de minimis* exception exists, adding additional private sector employees may exceed what is permitted.

On a technical note, as drafted, LD 1720 does not provide access to MainePERS for long-term care workers as described in the bill summary. As drafted the bill merely includes a definition of long-term-care workers in Part 20 of Title 5. We would be happy to work with the sponsor to make necessary changes should the committee decide to move forward with this legislation.

Thank you for your consideration of this testimony. I am happy to answer any questions and I will be available for the work session.