

DATE: February 24, 2021

TO: Senator Joseph Rafferty, Chair
Representative Mike Sylvester, Chair
Members, Joint Standing Committee on Labor and Housing

FROM: Kathy J. Morin, Manager, Actuarial and Legislative Affairs

SUBJECT: Testimony on L.D. 275 – An Act to Amend Retirement Laws Pertaining to Certain Educational Technicians

Good morning, Senator Rafferty, Representative Sylvester, and members of the Joint Standing Committee on Labor and Housing. My name is Kathy Morin, and I am the Manager of Actuarial and Legislative Affairs for the Maine Public Employees Retirement System.

As is typical for bills that are policy-related, MainePERS is testifying neither for nor against L.D. 275. This is because MainePERS' role is that of providing information and offering assistance the Committee might need in considering policy-related bills. Specific to L.D. 275, MainePERS does not have a policy view on which employee groups should be members. However, we are supportive of the bill in that it seeks to address an unintended change in membership policy for a specific employee classification.

MainePERS administers a defined benefit retirement plan for public employees, including those who meet the statutory definition of "teacher." There is a two-pronged test to determine whether a specific position meets this definition. The first is whether a position requires certification by the Department of Education (DOE) and the person filling the position holds the appropriate certification. For those positions and employees who do not meet the first test, the definition is met if the principal function of the position is to introduce new learning to students. Individuals who meet either of these definitions are mandatory MainePERS members in the teacher plan.

L.D. 275 addresses MainePERS membership for Educational Technicians, of which there are three levels. Historically, based on job responsibilities and certification requirements established by DOE in Rule Chapter 115, the positions of Educational Technician II and III have met the definition of teacher under the second test described above. However, the position of Educational Technician I has not met the definition of teacher, and therefore employees in those positions most typically participate in Social Security.

As a result of statutory and rule changes made in 2017 and 2018, Educational Technician I positions now require certification, which would make people filling these positions

mandatory members of MainePERS and ineligible for Social Security. MainePERS has discussed this matter with DOE as well as with the Maine Education Association, and there is agreement that no intent existed to change the treatment of Educational Technician I positions for retirement plan purposes.

The proposed bill would correct this unintended result by excluding from mandatory teacher plan membership those educational technician positions that do not require certification under Title 20-A, § 13019-H. That section requires certification only for Educational Technician II and III positions. Education Technician I positions, which are required to be certified under a different statutory provision and DOE rule, would be restored to the status quo ante, allowing those employees to continue to participate in Social Security.

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