

## LD 871

# An Act To Amend the Laws Relating to the Treatment of Maine State Retirement System Contributions for Terminated Members

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

**Sec. 1. 3 MRSA §703, sub-§2,** as enacted by PL 1991, c. 746, §1 and as affected by §10, is amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, which are refundable under ~~section 805~~ sections 805-A and 805-B, are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and

**Sec. 2. 3 MRSA §805,** as amended by PL 1997, c. 651, §1, is repealed.

**Sec. 3. 3 MRSA §805-A** is enacted to read:

### § 805-A. Refund of accumulated contributions

**1. Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this chapter, the member must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions;

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

C. An application for refund is void if the member filing the application returns to membership in any retirement plan administered by the Maine State Retirement System before issuance of the payment; and

D. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection.

**Sec. 4. 3 MRSA §805-B** is enacted to read:

### § 805-B. Inactive accounts

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 805-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account in the retirement system has been inactive for 3 or more years;

B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

**Sec. 5. 4 MRSA §1203, sub-§2,** as enacted by PL 1991, c. 746, §2 and as affected by §10, is amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, which are refundable under ~~section 1305~~ sections 1305-A and 1305-B, are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and

**Sec. 6. 4 MRSA §1305,** as amended by PL 1997, c. 651, §2, is repealed.

**Sec. 7. 4 MRSA §1305-A** is enacted to read:

§ 1305-A. **Refund of accumulated contributions**

**1. Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this chapter, the member must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions;

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

C. An application for refund is void if the member filing the application returns to membership in any retirement plan administered by the Maine State Retirement System before issuance of the payment; and

D. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection.

**Sec. 8. 4 MRSA §1305-B** is enacted to read:

§ 1305-B. **Inactive accounts**

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 1305-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account in the retirement system has been inactive for 3 or more years;

B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

**Sec. 9. 5 MRSA §17054, sub-§2**, as amended by PL 1991, c. 746, §6 and as affected by §10, is further amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, ~~being which are~~ refundable under sections ~~17705, 17706, 18306 and 18307~~ 17705-A, 17706-A, 18306-A and 18307-A, are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

**Sec. 10. 5 MRSA §17705**, as amended by PL 2003, c. 630, Pt. B, §3, is repealed.

**Sec. 11. 5 MRSA §17705-A** is enacted to read:

§ 17705-A. **Refund of accumulated contributions**

**1. Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this Part, or if an optional member withdraws from the retirement system, the member must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions;

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

C. An application for refund is void if the member filing the application returns to membership in any retirement plan administered by the retirement system before issuance of the payment;

D. Except when inclusion of a portion of employer contributions is required by paragraph E, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and

E. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156.

**Sec. 12. 5 MRSA §17706**, as amended by PL 1987, c. 739, §§19 and 48, is repealed.

**Sec. 13. 5 MRSA §17706-A** is enacted to read:

§ 17706-A. **Inactive accounts**

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 17705-A and who has terminated service, except by death or by retirement under this Part, or who as an optional member has withdrawn from the retirement system, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account in the retirement system has been inactive for 3 or more years;

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection;

C. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156; and

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

**Sec. 14. 5 MRSA §17851-A, sub-§6,** as enacted by PL 1997, c. 769, §11, is amended to read:

**6. Consequences of participation in retirement plan under section 17851, subsection 5-A, 6-A or 8-A.** Notwithstanding any other provision of law, a member in the capacities specified in subsection 1 who, prior to July 1, 1998 elected the retirement option provided in section 17851, subsection 5-A, 6-A or 8-A is treated as follows under the 1998 Special Plan.

A. A member who made the election at the time of first employment in a position covered under section 17851, subsection 5-A, 6-A and 8-A is considered to be a member under the 1998 Special Plan as of the date of hire. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

B. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

C. A member who was serving in a position covered under section 17851, subsection 5-A, 6-A or 8-A at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, provided that all of the payments required under section 17852, subsection 5-A, 6-A or 7-A are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning July 1, 1998, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

Employee contributions and actuarial and administrative costs paid to the retirement system by a member covered by this subsection may not be returned to that member, except that

these employee contributions may be refunded to a member who terminates service and requests a refund under section ~~47705~~ 17705-A.

**Sec. 15. 5 MRSA §17851-A, sub-§6-A**, as enacted by PL 1999, c. 493, §10, is amended to read:

**6-A. Consequences of participation in retirement plan under section 17851, subsection 12 or 13.** A member in the capacities specified in subsection 1, paragraphs J and K who, prior to January 1, 2000, elected the retirement option provided in section 17851, subsection 12 or 13 is treated as follows under the 1998 Special Plan.

A. A member who made the election at the time of first employment in a position covered under section 17851, subsection 12 or 13 is considered to be a member under the 1998 Special Plan as of the date of hire. Beginning January 1, 2000, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

B. A member who was serving in a position covered under section 17851, subsection 12 or 13 at the time of the election and who elected to participate in the retirement option prospectively from the time of election is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning January 1, 2000, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

C. A member who was serving in a position covered under section 17851, subsection 12 or 13 at the time of the election and who elected to participate in the retirement option prospectively from the time of election and also elected to purchase credit for service earned while serving in the same capacity before exercising the election is considered to be a member under the 1998 Special Plan as of the beginning date of the service for which credit is purchased, provided that all of the payments required under section 17852, subsection 12 or 13 are made before retirement. If all the required payments are not made before retirement, that member is considered to be a member under the 1998 Special Plan as of the effective date of the election. Beginning January 1, 2000, for employees identified in subsection 1, paragraphs J and K, a member covered by this paragraph shall contribute to the retirement system or have pick-up contributions made at a rate of 8.65% of earnable compensation until completion of 25 years of creditable service and shall contribute at a rate of 7.65% thereafter.

Employee contributions and actuarial and administrative costs paid to the retirement system by a member covered by this subsection may not be returned to that member, except that these employee contributions may be refunded to a member who terminates service and requests a refund under section ~~47705~~ 17705-A.

**Sec. 16. 5 MRSA §17953, sub-§1**, as amended by PL 1991, c. 619, §10 and as affected by §18, is further amended to read:

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section ~~47705~~ 17705-A, is paid:

A. To the qualifying member's designated beneficiary, if any;

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:

- (1) Surviving spouse;
- (2) Child or children, regardless of age, sharing equally among themselves; or
- (3) The older parent; or

C. To the qualifying member's estate.

**Sec. 17. 5 MRSA §18252, sub-§2,** as amended by PL 2003, c. 630, Pt. A, §4, is further amended to read:

**2. Employee who is participating member.** A person who is a participating member of the retirement system may elect to cease contributions to the system and, at that person's discretion, may withdraw accumulated contributions in accordance with section ~~18306~~ 18306-A.

**Sec. 18. 5 MRSA §18252-A, sub-§1, ¶A,** as amended by PL 2003, c. 630, Pt. A, §5, is further amended to read:

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of hiring or rehiring whether to be a member under the retirement system or to be covered under a plan provided by the employer under section 18252-B.

(1) If the person elects to be a member under the retirement system, the election is effective as of the date of hire or rehire.

(a) A person who elects to be a member of the retirement system may later elect to be covered under a plan provided by the employer under section 18252-B. The person who so elects may, at that person's discretion, withdraw accumulated contributions in accordance with section ~~18306~~ 18306-A.

(b) A person who elects under division (a) to be covered under a plan provided by the employer under section 18252-B may later elect to again become a member under the retirement system, unless to so elect would have the effect of requiring the employer, without the employer's agreement, to make an employer contribution to both the retirement system and the plan provided by the employer under section 18252-B.

(c) A person who elects under division (b) to again become a member of the retirement system may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of the retirement system. The person may, in accordance with section 18304, repay contributions withdrawn under division (a) and may, as permitted under other relevant retirement system law, rule and policy, repay other refunded contributions.

(d) A person who, having elected to again become a member under the retirement system under division (c), later elects again not to be a member may not thereafter become a member under the retirement system while employed by the same participating local district.

(2) A person who elects to be covered under a plan provided by the employer under section 18252-B may later elect to become a member under the retirement system.

(a) Membership service credit for a person joining the retirement system under this subparagraph begins as of the effective date of first contributions or pick-up contributions to the retirement system following that person's election under this subparagraph.

(b) A person who joins the retirement system under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which the person elected not to be a member of the retirement system.

(c) A person who, having elected to become a member under the retirement system under this subparagraph, later elects again not to be a member may, at the employee's discretion, withdraw accumulated contributions in accordance with applicable requirements of law and rule and retirement system procedures and may not thereafter become a member under the retirement system while employed by the same participating local district.

**Sec. 19. 5 MRSA §18252-A, sub-§1, ¶B,** as amended by PL 2003, c. 630, Pt. A, §5, is further amended to read:

B. An employee of the participating local district who is a member under the retirement system on the date on which the employer provides a plan under section 18252-B may elect to remain a member under the retirement system or to become covered under a plan provided by the employer under section 18252-B.

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the retirement system by that person. A person who elects not to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section ~~18306~~ 18306-A.

(2) A person who elects not to remain a member under the retirement system may later elect to again become a member.

(a) Membership service credit for a person who elects to again become a member under the retirement system under this subparagraph begins as of the effective date of the first contributions or pick-up contributions to the retirement system following that person's election under this subparagraph.

(b) A person who rejoins the retirement system under this subparagraph may, in accordance with section 18305-A, purchase service credit for the period during which that person elected not to be a member of the retirement system. The person may, in accordance with section 18304, repay contributions refunded under subparagraph (1), unless to so elect would have the effect of

requiring the employer, without the employer's agreement, to make an employer contribution to both the retirement system and the plan provided by the employer under section 18252-B.

(c) A person who, having elected to again become a member under the retirement system under this subparagraph, later elects again not to be a member may, at that person's discretion, withdraw accumulated contributions in accordance with section ~~18306~~ 18306-A and may not thereafter become a member under the retirement system while employed by the same participating local district.

**Sec. 20. 5 MRSA §18306**, as amended by PL 2003, c. 630, Pt. A, §11, is repealed.

**Sec. 21. 5 MRSA §18306-A** is enacted to read:

§ 18306-A. **Refund of accumulated contributions**

**1. Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this Part, or if an optional member withdraws from the retirement system, or if an employee of a district that withdraws from participation under section 18203 wishes to have accumulated contributions refunded, the member or employee must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions;

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

C. An application for refund is void if the member filing the application returns to membership in any retirement plan administered by the retirement system before issuance of the payment;

D. Except when inclusion of a portion of employer contributions is required by subsection 5, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this section; and

E. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156.

**Sec. 22. 5 MRSA §18307**, as amended by PL 1987, c. 739, §§37 and 48, is repealed.

**Sec. 23. 5 MRSA §18307-A** is enacted to read:

§ 18307-A. **Inactive accounts**

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 18306-A and who has terminated service, except by death or by retirement under this Part, or who as an optional member has withdrawn from the retirement system, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

- A. The member account in the retirement system has been inactive for 3 or more years;
- B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection;
- C. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156; and
- D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit.

**Sec. 24. 5 MRSA §18553, sub-§1**, as amended by PL 1991, c. 619, §17 and as affected by §18, is further amended to read:

**1. Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section ~~18306~~ 18306-A, is paid:

- A. To the qualifying member's designated beneficiary, if any;
- B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

- (1) Surviving spouse;
  - (2) Child or children, regardless of age, sharing equally among themselves; and
  - (3) The older parent; or
- C. To the qualifying member's estate.

**Sec. 25. 20-A MRSA §12722, sub-§3**, as amended by PL 2001, c. 442, §4, is further amended to read:

**3. Maine State Retirement System members.** An eligible person who becomes a participant in the defined contribution plan offered by the board of trustees and who is a member of the Maine State Retirement System at the time participation in the defined contribution plan begins may apply for a refund of accumulated contributions from the Maine State Retirement System pursuant to Title 5, section ~~17705~~ 17705-A, except that any such person who has less than the number of years of creditable service required to be eligible for a Maine State Retirement System benefit as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B shall apply for a refund of accumulated contributions. Participation in the defined contribution plan offered by the board of trustees pursuant to this section is considered a termination of service for purposes of Title 5, section ~~17705~~ 17705-A as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B, except that, if an application is made for refund of accumulated contributions under an election pursuant to subsection 2, paragraph A, payment must be made no later than 90 days after receipt of the application by the Maine State Retirement System. Service rendered while a participant in the defined contribution plan offered by the board of trustees does not constitute service for a Maine State Retirement System member

who does not withdraw contributions from the Maine State Retirement System nor is the member considered to be in service for purposes of Title 5, chapter 423, subchapter ~~5~~, articles 3-A, 4 and 5.

**Sec. 26. Inactive accounts; transition.** For a member of the Maine State Retirement System who has been inactive for at least 10 years as of the effective date of this Act and whose member contributions, not including accumulated interest, are less than \$100, the retirement system may transfer those contributions from the member's account to the Retirement Allowance Fund. The provisions of the Maine Revised Statutes, Title 5, section 17706, subsections 1 and 2 and section 18307, subsections 1 and 2 as repealed continue to apply to a member whose contributions are transferred under this transitional provision. The same provisions apply to members of the Maine Judicial Retirement System and the Maine Legislative Retirement System whose contributions are transferred under this transitional provision.

## SUMMARY

This bill repeals the current statutory provisions governing the refund of accumulated contributions to members and the treatment of accumulated contributions for terminated members and replaces those provisions. The replacement language is substantively the same for terminated members who apply for a refund of accumulated contributions. For nonvested terminated members, the bill permits the Maine State Retirement System to make an automatic refund of accumulated contributions to the member and permits the member to reinstate membership upon the return of automatically refunded accumulated contributions. The bill also contains transitional language to assist the retirement system in its effort to improve the quality of member data.