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# Maine State Retirement News for Members Retirees and Employers, September 2001

Maine Public Employees Retirement System

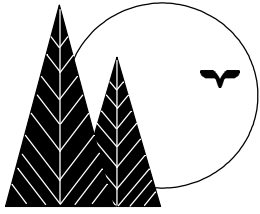
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Maine State

# Retirement News

for Members, Retirees and Employers

Maine State Retirement System

September 2001

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This entire issue is devoted to several important changes made by the recent Legislature.

In order for specific legislation explained in this newsletter to apply to members in the participating local district (PLD) Consolidated Plan, the Advisory Committee that oversees that plan must decide to make the provisions of the legislation applicable to The Plan.

## State Employees and Teachers Returning to Work After Retirement

(PL 2001, Chapter 442)

If you are retired and have been, or plan to become, re-employed, this legislative change is of particular importance to you. Effective September 21, 2001, the Legislature has repealed the law that limits the amount retired state employees and retired teacher members may earn when they return to employment covered under the MSRS state employee and teacher plan (i.e., are "restored to service"). Until the repeal, the retirement benefits of retired individuals who were restored to service were reduced if those individuals' earnings exceeded the limitations in the law. The repeal removes these limitations so that earnings from MSRS-covered employment no longer affect retirees' service retirement benefits. The repeal affects only state employees and teachers who receive a service retirement benefit from the Maine State Retirement System. It does not affect individuals who receive a Maine State Retirement System disability retirement benefit. (Disability retirement benefit recipients should read the *Changes in Earnings* article on this page.) It also does not

affect individuals who retire from a participating local district. The new restoration to service law for state employees and teachers goes into effect on September 21, 2001. As of that date, state employee and teacher retirees are not limited as to the amount they may earn if they return to work in a position under the state employee and teacher plan. For Maine State Retirement System purposes, such a retiree remains a retiree; he or she does not again become an active MSRS member. Specifically, the retiree does not make employee contributions to the System, and no additional benefit is accrued based on either the new period of employment or the salary that is earned during that period of employment. Under the new restoration to service law, a state employee or teacher retiree cannot become "restored to membership." This means that a state employee or teacher retiree who works after retirement cannot stop receiving a retirement benefit and again become an active contributing MSRS member.

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## Changes in Earnings Limitations for Some Disability Recipients

(PL 2001, Chapter 443)

If you receive a disability retirement benefit from the Maine State Retirement System (MSRS), a law passed in the First Regular Session of the 120<sup>th</sup> Legislature may change the amount of wages you are allowed to earn while receiving an MSRS disability benefit, without the level of your benefit being affected. The provisions that have changed are called the "earnings limitations" provisions.

In general, the earnings limitations provisions governing disability retirement recipients limit the amount that a disabled retiree can earn in a calendar year without having to pay back all or a portion of the disability benefit. It is of course not known how much a disability retiree has earned in a calendar year until the year is over. For this reason, disability benefit recipients report earnings to the MSRS in the following calendar year. If the earnings limitation is exceeded, the amount that must be paid back to the MSRS is deducted from the monthly benefit in this following year in equal amounts over the number of months remaining in the year. If the amount that must be paid back is greater than the disability retirement benefit, the benefit may be completely eliminated. In this event, the retiree must also repay any additional amount required to be paid back.

This two-year cycle for finalizing the effects of earnings complicates the

Continued on page 5

*Returning to Work continued from page 1*

Following are some questions and answers that may help to clarify how the restoration to service legislation pertains to your circumstances.

**QUESTION 1:** I have been restored to service for several years and in calendar year 2000, I exceeded my earnings limitation such that in calendar year 2001, I am repaying my overearnings through a reduction in my retirement benefit. Does this legislation affect the requirement that I repay those overearnings?

**ANSWER 1:** No. For earnings received in calendar year 2000, you must continue to repay the total amount due. The overearnings were determined based upon the law then in effect, which required repayment of overearnings.

**QUESTION 2:** I have been restored to service for all of calendar year 2001. How will this legislation affect me?

**ANSWER 2:** The current restoration to service provisions apply to all earnings that you receive prior to September 21, 2001. The earnings that you receive prior to September 21, 2001 will be reviewed against your 2001 earnings limitation. If you have overearned as of that date, you will be required to repay one-half of the amount by which you have overearned, as provided by the restoration to service provisions in effect until September 21, 2001. Any repayment would commence as of your January 2002 benefit check. Earnings that are received on and after September 21, 2001 are not subject to the earnings limitation. If you have not overearned by September 21, 2001, you cannot overearn thereafter.

**QUESTION 3:** Is there any way that I can become an active member again based on my calendar year 2001 earnings?

**ANSWER 3:** Yes, but it is highly unlikely. If prior to September 21, 2001, by application of the restoration to service provisions in effect until then, you have a sufficient level of earnings to again become a contributing Maine State Retirement System member, you would again start contributing to the System on January 1, 2002, and your benefit would be recalculated when you again retire, based on the additional earnings and service credit. There is no other circumstance under which you could again become an active MSRS member in the state/teacher plan.

**QUESTION 4:** Under the new legislation, if I am restored to service in a position that has a higher salary than that used in the calculation of my retirement benefit, can I have those earnings included in the calculation of my benefit?

**ANSWER 4:** No. In relation to the answer to question 3, for earnings received after September 21, 2001, there is no mechanism whereby a retiree can stop receiving a retirement benefit and again start contributing to the System towards additional benefit. Therefore, there is no circumstance under which you could include the additional earnings in the calculation of your benefit.

**QUESTION 5:** I am currently an active member who is qualified to retire. After the effective date of this legislation, may I retire and begin to receive my retirement benefit and immediately go back to work with my same employer?

**ANSWER 5:** A member can retire whenever the member meets the qualification requirements to do so. These requirements include terminating employment with your employer. You cannot be rehired in an MSRS covered position before the effective date of your retirement as an MSRS member (no earlier than the first of the month following the month in which you terminate your employment) and still remain eligible to retire on that effective date.

This legislation represents a significant change for retirees who choose to work after retirement. If you are receiving a pension from a source other than the Maine State Retirement System, you should check with the issuer of that pension to determine how earnings after retirement may affect that pension. This legislation only pertains to service retirement benefits received from the Maine State Retirement System.

**If you have a question as to how this legislation applies to your specific circumstance, please contact the Retirement Services Division of the Maine State Retirement System.**

## Changes in Special Retirement Plan Coverage

The Maine State Retirement System administers several different retirement plans for State employees, teacher members, and employees of participating local districts, which include such entities as municipalities, public libraries, water and sewer districts and school support employees. Those plans include the “regular plans”, under which most MSRS members are covered, and the “special plans”, under which specific categories of members are covered. A special plan typically permits a member to retire earlier than does a regular plan or entitles the member to a higher benefit level. The decision to cover any specific group of State employees or teacher members by a special plan is a legislative policy decision that is ultimately expressed in the form of specific legislation. The decision to cover employees of a participating local district by a special plan is made by the individual employer.

During the First Regular Session of the 120<sup>th</sup> Legislature, changes in special retirement plan coverage were made for three categories of State employees and one category of participating local district employees. Those changes are explained below.

### Change in plan coverage for specific employees of the Department of Environmental Protection

(PL 2001, Chapter 409)

Effective January 1, 2002, oil and hazardous materials emergency response workers in the employment of the Department of Environmental Protection, Division of Response Services, who participate in a standby rotation will be covered by the 1998 Special Plan, retroactive to their date of hire into a covered position. This plan provides for retirement after twenty-five (25) years of service in a covered position and has a normal retirement age of 55. This means that a member who has earned twenty-five years of service in a covered position may retire at age 55 without incurring a reduction in benefits for early retirement. A member who has earned twenty-five years of service but has not yet reached age 55 may retire with a reduction in benefits for each year that the age at retirement precedes age 55. Additionally, a member who has at least ten (10) years of service in this plan, and who terminates employment prior to meeting the twenty-five year requirement, may begin to receive a benefit at age 55. The employee contribution rate for this plan is 8.65% of earnable compensation, which is an increase from the 7.65% currently paid by this category of State employee.

If you have a question as to whether you are in a position that is impacted by this change in retirement plan coverage, you should contact the Department of Environmental Protection.

### Change in plan coverage for law enforcement officers in the Department of Inland Fisheries and Wildlife and the Department of Marine Resources

(PL 2001, Chapter 439)

Currently, law enforcement officers in the departments of Inland Fisheries and Wildlife and Marine Resources hired after August 31, 1984 are covered by the 1998 Special Plan. This legislation removes those groups from the 1998 Special Plan and places them in a different special retirement plan retroactive to their date of hire into a covered position. This new plan provides for retirement after completion of twenty-five (25) years of service in the specific capacity, regardless of the age at which the twenty-five years is reached. This means that a member covered by this plan can retire after twenty-five years of service at any age without incurring a reduction for early retirement.

The effective date of this plan change has not yet been set. The provisions of the legislation do not take effect until the Legislature takes additional action to fund this plan change. The plan change cannot go into operation until it is funded. Until that time, these groups of members remain covered by the 1998 Special Plan.

If you have questions regarding this change in plans applicable to law enforcement employees in the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, you should contact the State Unit of the MSRS Retirement Services Division.

*Changes in Special Retirement Plan Coverage*  
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## Change in plans available to County Corrections Employees

(PL 2001, Chapter 368)

Under present law, sheriffs and full-time deputy sheriffs may be covered by a special plan if their employer elects such plan coverage. Under the new law, the employer may also elect to cover county corrections employees by a special plan. A county corrections employee is defined by this legislation to be an employee of a county who is employed at a county jail and whose duties include contact with prisoners or juvenile detainees.

The inclusion of county corrections employees in a special plan is immediately available for adoption by participating local districts that are not part of the PLD Consolidated Plan. The employer contribution rate is higher for special plan coverage than for regular plan coverage whether the participating local district is in the Consolidated Plan or not. Depending upon the special plan adopted by the participating local district, the employee rate could also be higher than the rate currently paid by this group under a regular plan.

**If you have questions regarding this change in plans available to county corrections employees, you should contact the Participating Local District Unit of our Retirement Services Division.**

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## Voluntary Employee Incentive Program for State Employees

(PL 2001, Chapter 358)

State employees will have the option to participate in a Voluntary Employee Incentive Program under new provisions of the law. This program gives employees, with the approval of their employer, the option of modifying their work schedule in such ways as a 50% workweek option, flexible position staffing and time off without pay. Your employer will administer this program and can explain what options may be available to you. Participation in the Voluntary Employee Incentive Program impacts MSRS group life insurance coverage, the accrual of creditable service and the determination of earnable compensation, as explained below.

The legislation specifically provides that MSRS group life insurance coverage will continue based upon the scheduled hours of the employee prior to the participation in the Voluntary Employee Incentive Program. Therefore, there can be no loss in the level of coverage provided because of the incentive program.

Creditable service is earned based upon the actual hours worked by an employee. Therefore, members who participate in this incentive program will likely accrue creditable service at a lesser rate than when not participating in the program. For example, an employee who participates in the 50% workweek option will earn one-half of the amount of creditable service that was earned when working full time. Since a member must earn a specific number of years of creditable service to become eligible to retire (e.g. 25 years), a member who participates in this program may ultimately be required to work for an additional period of time in order to qualify to retire.

**If you have questions regarding the specifics of the Voluntary Employee Incentive Program, you should contact your department personnel office. If you have questions regarding the impact of your participation on your group life insurance coverage, you should contact the MSRS Survivor Services Unit. If you have questions regarding the impact of your participation on the rate at which you accrue creditable service or the determination of your earnable compensation, you should contact the State Unit of the MSRS Retirement Services Division.**

Likewise, earnable compensation is determined based upon actual earnings received by a member. A member's retirement benefit is based on the member's three highest years of earnable compensation. Members who participate in this incentive program will likely have lower earnable compensation for the years

of participation. This fact will affect the member's retirement benefit only if the years of participation are the years that are, or otherwise would have been, used in the calculation of average final compensation for benefit calculation purposes.

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### *Changes in Earnings Limitations for Some Disability Recipients continued from page 1*

implementation of the new law. This is because the new law is to be applied to earnings earned in calendar year 2000. These earnings have, of course, already been reported to the MSRS in 2001 and the appropriate offsetting deductions for disability retirement benefits in 2001 were already in progress when the new law took effect.

Three different disability retirement programs (Chapter 1122 and Articles 3 and 3-A Programs) are run by the MSRS. Each program is affected differently by these new provisions. As a general guideline, if you have been in a disability retirement program and you were subject to an earnings limitation of \$10,000, that limitation has been increased to \$20,000. This change, which applies for earnings in calendar year 2000 and after, allows the disability benefit recipient to have earned \$20,000 in calendar year 2000 before the benefit would be reduced in 2001. Recipients who were high wage earners before becoming disabled may have had an earnings limit higher than \$10,000. Such a member now has a limitation of \$20,000 or possibly higher. In years after 2000, the \$20,000 increases by the amount of the MSRS COLA increase in each year.

If you are unsure whether or not the \$10,000 limitation previously applied to you, the MSRS disability staff can assist you in determining what disability program you are covered by. For each disability program, additional specific details dictate how this change in the law will affect you. MSRS is in the process of preparing a "Fact Sheet" on this subject that will be mailed to all disability benefit recipients before the end of calendar year 2001.

If the MSRS reduced your disability benefit in 2001 because you exceeded your earnings limitation under the former law in 2000 and you will not have exceeded your earnings limitation under the new law, the new law will be applied retroactively to your situation. We are in the process of identifying those recipients who are in these circumstances and will contact them soon about how dollars that have already been offset from their benefits will be restored to their benefits. The MSRS will send you your recalculated calendar year 2001 earnings limitation, including any COLA effect if you are in a program covered by COLA, by late fall 2001.

One additional point with regard to this change in the law has to do with the relationship of this higher earnings limitation to the requirement that, under most MSRS disability programs, you as a disability retirement benefit recipient

must continue to demonstrate, in order to remain eligible for benefits, that you are not able to engage in "substantially gainful activity" (SGA) based on the same incapacity for which benefits were granted on an ongoing basis. SGA is defined as a position in which you could earn 80% of your average final compensation, adjusted by COLA. Earnings may be one demonstration that you are able to engage in "substantially gainful activity", resulting in a discontinuance of disability benefits, even if the earnings are not so high that you are required to pay excess earnings back to the MSRS. This complicated area is dealt with more thoroughly in the "Fact Sheet" that will be sent to you.

**If you have questions as to how this legislation applies to your specific circumstance, please contact the Disability Unit of the Maine State Retirement System.**

## **Purchase of Military Service Credit (PL 2001, Chapter 114)**

Before becoming members of the Maine State Retirement System, many of our members served in the Armed Forces. For many years there have been provisions in MSRS law that have allowed for the purchase of retirement credit for military service. The eligibility requirements to purchase service include: 1) having at least fifteen (15) years of creditable service; 2) separating from the armed forces under conditions other than dishonorable; and 3) having become an MSRS member prior to January 1, 1976, or having become a member on or after that date and served during a federally recognized period of conflict. A member who meets the requirements may purchase military service credit by paying contributions based on the member's salary in effect during the first year of MSRS service after the service in the armed forces. Interest on the purchase is charged only if the military service credit is not purchased by the member immediately upon becoming eligible to purchase that service. Prior to Chapter 114 taking effect on September 21, 2001, a member who did not meet all three of these requirements was not eligible to purchase credit for the member's military service.

The new military service credit legislation provides a means to purchase military service credit for members who are not eligible to purchase military service credit under the

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*Military Service Credit continued from page 5*

existing provisions of the law. Specifically, if a member either does not have fifteen years (15) of creditable service and/or became a member on or after January 1, 1976 and has military service that is not during a federally recognized period of conflict, the member may purchase the military service credit under this new law. In order to do so, the member need only have five (5) years of creditable service. The requirement that the separation from the armed forces be under terms other than dishonorable still applies. A member who qualifies to purchase military service credit under this new law may do so by paying the full actuarial cost of the additional benefit associated with that service. Although this cost will likely be significantly

**If you have military service and would like information regarding your eligibility to purchase military service credit either under the current or new law, please contact our Retirement Services Division.**

greater than the cost for those who meet the requirements of current law, this change gives some members an opportunity to purchase military service credit that they would otherwise not have been able to purchase. For some members, such a purchase can be significant with respect to qualification for retirement.

A final provision of the new law provides that a member who purchases military service credit under this provision and who subsequently meets the eligibility requirements that permit payment at a more favorable cost will be refunded the difference between the amount paid and the amount of the more favorable cost. This may occur when a member buys the military service when the member has less than fifteen years of service, not expecting to work long enough to attain 15 years, but then later does attain 15 years. In that case, the member would be entitled to a refund of the amount by which the cost under this new provision exceeds the cost under the more favorable provision.

## Trustees Set COLA at 3.2%

At its meeting in August, the MSRS Board of Trustees adopted a cost-of-living adjustment (COLA) of 3.2% to be added to the benefits of all **COLA-eligible** benefit recipients, effective with benefits to be paid in September 2001.

The COLA rate, by state statute, is set at the amount of the change in the Consumer Price Index (CPI) for the 12-month period preceding each June 30. As explained in the 2001 Legislative Update included in this issue, the legislature recently changed the CPI on which the COLA is based from the Consumer Price Index for Urban Wage and Clerical Workers (CPI-W), to the Consumer Price Index for All Urban Consumers (CPI-U). The September 2001 COLA was established in accordance with this recent change in law.

**State employee and teacher benefit recipients** are eligible to receive a cost-of-living adjustment (COLA) in the first September after having been retired for at least 12 months. For example, if you retired as of September 1, 2000, you received a COLA in September 2001; if you retired as of October 1, 2000, you will receive a COLA in September 2002. If, however, your normal retirement age is 62, you are not eligible to receive a COLA until at least 12 months after you reach age 62.

**PLD benefit recipients** that are covered by a retirement plan that includes the COLA provision are eligible to receive a COLA the first September after having been retired for at least six months. For example, if you retired by March 1, 2001 or earlier, you received a COLA in September 2001. If you are unsure if your district has a COLA provision, check with your payroll office or the PLD Unit of the Retirement System.



### Maine State Retirement News

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**You can reach the MSRS at 207-287-3461 or 800-451-9800 or (TTY only) 207-287-8446**

Continued from front

**An Act to Improve Pension Benefits for Employees in the Department of Environmental Protection**

**PL 2001, Chapter 409 [LD 1566]  
Amending: 5 MRSA §17851-A, 38 MRSA §551  
Effective Date: January 1, 2002  
Members Affected: Some State Employees**

This bill extends coverage of the 1998 Special Plan to specific employees in the Department of Environmental Protection. (See related article on page 3 of the September 2001 issue of *Retirement News*.)

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**An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government...for Fiscal Years Ending June 30, 2002 and June 30, 2003**

**PL 2001, Chapter 439 [LD 855]  
Effective Date: September 21, 2001  
Members Affected: Some State, Teachers and Judges**

This is the "Part B" state budget. Included in this bill are provisions to: 1) increase the state share of the health insurance premium for retired teachers from 30% to 35% effective July 1, 2002; 2) increase the maximum service retirement benefit available to certain retiring judges to 70% of average final compensation (AFC); and 3) remove Inland Fisheries and Wildlife Officers and Marine Resource Officers from the 1998 Special Plan and place them in a special retirement plan that provides for retirement after 25 years of service in a covered capacity, regardless of the age at which the twenty-five year is reached. (See related article on page 3 of the September 2001 issue of *Retirement News*.)

**An Act to Expand Retirement Benefits for State Employees and Teachers Returning to Service**

**PL 2001, Chapter 442 [LD 1255]  
Amending: 5 MRSA, §§17855, 17857, 20-A MRSA, §12722  
Effective Date: September 21, 2001  
Members Affected: Service Retired State and Teachers**

This bill repeals the restoration to service provision currently in effect for retired State and teacher members. (See related article on page 1 of the September 2001 issue of *Retirement News*.)

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**An Act to Increase the Limit on Earnings for Beneficiaries of Disability Retirement Benefits**

**PL 2001, Chapter 443 [LD 98] Amending: 5 MRSA, §§17906, 17930, 18506, 18530, P&SL 1995, C. 38 Effective Date: January 1, 2001  
Members Affected: Disability Retired State, Teachers and PLD**

This bill increases the amount that some disability retirees may earn without incurring a reduction in benefits. It also reverses any permanent reductions to disability retirement benefits for "section 1122" disability recipients based on earnings in calendar years 1999 and 2000 and suspends further implementation of this requirement until January 1, 2003. (See related article on page 1 of the September 2001 issue of *Retirement News*.)

**To receive a copy of any enacted laws, please contact the Engrossing Division of the Office of the Revisor of Statutes at (207) 287-1324**



# 2001 Legislative Update

## Legislation Enacted in the First Regular Session of the 120th Legislature

### **An Act Concerning Eligibility Requirements for State Employees, Teachers and Participating Local District Employees to Purchase Military Service Credit**

**PL 2001, Chapter 114 [LD 237]**

**Amending: 5 MRSA §§17760, 18360**

**Effective Date: September 21, 2001**

**Members Affected: State, Teacher and PLD**

This bill provides a method by which a member may purchase military service credit that the member is otherwise ineligible to purchase. (*See related article on page 5 of the September 2001 issue of Retirement News.*)

### **An Act to Amend the Laws of the Maine State Retirement System**

**PL 2001, Chapter 181 [LD 1754]**

**Amending: 3 MRSA, §731, 5 MRSA, §§17001,  
17102, 17107, 17655, 17851, 18254, 18258**

**Effective Date: May 16, 2001**

**Members Affected: State, Teacher and PLD**

This bill makes a number of changes to various provisions of current MSRS statutes. The changes of particular interest include: 1) the establishment of the Consumer Price Index for All Urban Consumers (CPI-U) as the basis for cost-of-living adjustments rather than the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) previously used; 2) the removal of the requirement that a member must serve in the armed forces during a federally recognized period of conflict in order to continue to earn MSRS creditable service when the military service occurs during the period of an individual's MSRS membership; and 3) the establishment of conditions under which all its liabilities have been satisfied such that a participating local district that has withdrawn from the MSRS may receive a refund of assets.

### **An Act Making Unified Appropriations and Allocations for the Expenditures of State Government...for Fiscal Years Ending June 30, 2001, June 30, 2002 and June 30, 2003**

**PL 2001, Chapter 358 [LD 300]**

**Effective Date: June 4, 2001**

**Members Affected: Some State Employees**

This bill is the "Part A" state budget. Part F of this bill provides for a Voluntary Employee Incentive Program for State employees who apply to participate prior to July 1, 2003. (*See related article on page 4 of the September 2001 issue of Retirement News.*)

### **An Act to Allow County Corrections Personnel to Participate in the Same Retirement Plan as Other Corrections Personnel**

**PL 2001, Chapter 368 [LD 1276]**

**Amending: 5 MRSA §18453**

**Effective Date: June 8, 2001**

**Members Affected: Some PLD Employees**

This bill amends the classification of employees that may be covered by specific participating local district special plans to include county corrections employees. (*See related article on page 4 of the September 2001 issue of Retirement News.*)

### **Legislation carried over to the second session of the 120th Legislature:**

LD 1211 - An Act to Supplement Benefits for State Employees and Teachers whose Pensions are Subject to Reductions Enacted in 1993.