**94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM (MainePERS)**

**Chapter 401: MEMBERSHIP AND CREDITABLE SERVICE - STATE EMPLOYEES AND PARTICIPATING DISTRICT EMPLOYEES**

**SUMMARY**: This chapter sets forth the bases upon which membership in the Maine Public Employees Retirement System is required, is denied or is optional and sets forth the bases upon which creditable service is granted for State Employees and Employees of Participating Local Districts.

**1. State Employees - Membership**

 Membership in the Maine Public Employees Retirement System will be compulsory upon date of employment for all State employees regardless of employment classification or status, with the following exceptions:

A. Retired State employees drawing benefits under the System (except as provided by 5 MRSA, Section 17855], Judges and Justices of the Court System, members of the Legislature [except as provided by 3 MRSA, §801) and persons appointed to state boards as defined in 5 MRSA, §12002, sub-§1 (see 5 MRSA, §12003-A, sub-§7) may not be members.

B. Persons receiving per diem compensation only are not eligible for membership under the System.

C. Membership will be optional for elected officials and officials appointed for fixed terms.

D. Persons employed by state operated schools in which they are enrolled as full-time students are not eligible for membership in the Maine Public Employees Retirement System.

E. Persons on active duty with the Maine National Guard upon being called by the Governor and whose salaries are paid by the State are not eligible for membership in the Maine Public Employees Retirement System unless already members as state employees or public school teachers. Such persons who are members of the Retirement System as state employees or public school teachers shall not have contributions deducted from their National Guard salaries but shall be granted creditable service when they pay the appropriate contributions directly to the Maine Public Employees Retirement System after verification of time served and total earnings.

F. Persons employed by the Maine Technical College System ["MTCS"] as adjunct faculty members on a project basis to work as instructors either in MTCS instructional programs or in customized training projects based upon contracts between the MTCS and private employers are not eligible for membership in the Maine Public Employees Retirement System.

G. Membership in the System for teachers who are State employees, unless otherwise ineligible for membership, shall be subject to Chapter 404, section 1, of the Retirement System rules.

H. Persons hired to respond to a natural disaster are not eligible for membership.

**2. State Employees - Creditable Service - before July 1, 1991**

 A. Permanent - From beginning date to ending date.

 B. Seasonal and Part-time - Members whose employment is on an average of 20 hours per week for a 50-week period per year will receive one full year of credit. If employment is on an average of less than 20 hours per week for a 50-week year, credit will granted on the basis of the number of days worked times 1.6, converted to years, months and days.

 C. Intermittent Permanent

 Intermittent Seasonal

The employees in these classifications will receive credit on the following basis: Actual number of days worked times 1.6, converted to years, months and days.

 Intermittent Project

 Limited Period

 Project

 Part-time Limited Period

 Part-time Project

 Part-time Seasonal

 Legislative Employees

D. Elected Officials (Legislators) - From date session begins to end of biennium, if does not resign. 5 terms = 10 years [See 5 MRSA, Section 17758, subsection 1].

E. Appointed Officials [Department Heads] - Time granted is based on the status of position; that is, permanent, limited, etc.

F. Teachers in State Institutions - Creditable service for teachers who are State employees shall be based upon Chapter 404, sections 2 and 3, of the rules of the Retirement System.

G. Appointments - Regular, provisional, emergency, temporary, etc. - Time is based on the position status; that is, permanent, part-time, etc.

H. Employees for which no employee record exists (after 7/1/42) and which the beginning and ending dates cannot be verified by the department (Highway Department), time is granted as follows:

If gross earnings are but less than amount of credit is

 1 50 15 days

 50 100 1 month

 100 200 2 months

 200 300 3 months

 300 400 4 months

 400 500 5 months

 500 600 6 months

 600 700 7 months

 700 800 8 months

 800 900 9 months

 900 1,000 10 months

 1,000 1,100 11 months

 1,100 or more 1 year

**3. State Employees Creditable Service - After June 30, 1991**

A. State employees whose creditable service was determined by subsections D, F and H of section 2 before July 1, 1991, shall continue to be covered by those subsections.

B. Except as provided by subsection C, all other employees shall earn creditable service on the following basis:

(1) For purposes of this subsection, a "full-time employee" is an employee who worked, in the pay periods covered by a payroll report, 100% of the regularly scheduled standard hours prescribed by the employer for employees in the same class and agency. However, if the employer prescribes less than 35 or more than 40 regularly scheduled standard hours per week for an employee class, for purposes of this rule, the employer shall be considered to have prescribed 35 and 40 regularly scheduled standard hours per week, respectively, for a full-time employee in that class.

(2) Full service credit for the pay periods covered shall be granted to a member who works, in the pay periods covered by a payroll report, 100% of the hours worked by a full-time employee.

(3) A member who works less than 100% of the hours worked by a full-time employee, in the pay periods covered by a payroll report, shall be granted creditable service equal to the ratio of hours worked by the member to 100% of the hours worked by a full-time employee.

(4) Regardless of subsections 2 and 3, a member shall continue to accrue creditable service while on a leave of absence without pay of up to a month's duration each year. The member shall accrue creditable service during the leave of absence at the same rate creditable service was accrued during the six months prior to the commencement of the leave of absence.

 C. A full year of creditable service will be granted to any state employee for any calendar year during which that employee is employed for 1,000 or more hours in a part-time or seasonal position provided:

(1) The employee was employed in a part-time or seasonal position during the period beginning January 1, 1989, and ending June 30, 1991; or

(2) The employee was first employed before July 1, 1991, in a position that the state department or agency has identified as in a career ladder in which the employee is required to move from full-time status to seasonal status when accepting a promotion in the employee's career ladder;

(3) The employee continues to be employed by the State without interruption; and

(4) The employee's name appears on the list required by subsection D to be submitted by the department or agency which employs the employee.

D. Each State department or agency that has employees to whom subsection C applies shall submit to the Retirement System on the schedule required by the Retirement System a list of all such employees. The list shall include the following, as of June 30, 1991, with relation to each employee:

(1) Name and social security number,

(2) Classification title and number,

(3) Position number,

(4) Type of position; i.e., full-time, part-time or seasonal.

(5) Date of first employment by department or agency,

(6) Date first employed in current position,

(7) If C(2) applies, title and number of prior and next classification in career ladder.

E. In the event that a state department or agency fails to identify or report on its list all employees to whom subsection C applies and it is subsequently discovered that an employee(s) should have been identified and reported to the Retirement System, correction of the list of employees will be allowed if the employer is able to provide sufficient documentation to the Retirement System that the missing employee(s) should have been included on the list previously submitted in accordance with this subsection.

F. Each State department or agency that had a position that is referred to in subsection C(2) during the period beginning January 1, 1989 and ending June 30, 1991 shall also submit to the Retirement System, on the schedule required by the Retirement System, a list of all such positions. This list shall include the following, as of June 30, 1991, with relation to each position:

 (1) Classification title and number,

 (2) Position number,

 (3) Type of position; i.e., full-time, part-time or seasonal,

 (4) Date position was established by department or agency,

 (5) Title and number of prior and next classifications in a career ladder.

 In the event that a state department or agency fails to identify or report all positions to which subsection C(2) applies and it is subsequently discovered that a position(s) should have been identified and reported to the Retirement System, correction of the list of positions will be allowed if the employer is able to provide sufficient documentation to the Retirement System that the missing position(s) should have been included on the list previously submitted in accordance with this subsection.

**4. Participating District Employees - Membership**

A. Prior to July 1, 1984, participating district employees who are less than full-time, regular, will be permitted membership in the Maine Public Employees Retirement System on the basis of personnel rules or regulations which have been adopted by the participating local district, if such rules or regulations do not conflict with existing statutes or legal opinions.

B. The following provisions shall apply to employees of participating local districts hired on or after January 1, 1987:

(1) Regardless of employment status, an employee shall be a member of the Retirement System from the first day of employment if his job description is one that would require him to work more than 15 hours per week and accumulate at least 720 hours in a period of 12 consecutive months. "First day of employment” shall mean the first day on which the employee reports for work.

(2) Regardless of his job description or if no job description exists, any employee who has worked more than 15 hours per week and has accumulated at least 720 hours in a period of 12 consecutive months shall become a member of the Retirement System as of the first day of the first pay period following the end of the 12 month period.

(3) In the case of employees who share a job whose description would require membership, each employee shall be a member of the Retirement System regardless of the number of hours worked.

(4) Any employee who accumulates more than 1,170 hours in 18 consecutive months or less shall become a member of the Retirement System as of the first day of the first pay period following the end of the 18 month period.

(5) Any employee who must become a member of the Retirement System pursuant to paragraphs 2 or 4 shall have the option of purchasing creditable service time back to the beginning of the 12 month period described in paragraph 2 or the 18 month period described in paragraph 4.

(6) Upon qualifying for membership in the Retirement System under this rule, an employee shall become and remain a member, regardless of the number of hours worked, as long as that employee works for the same employer. Only an employee who terminates employment, withdraws his accumulated contributions, and does not return to employment with the same employer within two (2) years from the date on which he was last employed, must requalify for membership under this rule.

C. The following provisions apply to employees of participating local districts hired on or after July 1, 1984, but before January 1, 1987:

(1) Any employee hired on or after July 1, 1984, but before January 1, 1987, who is not a member of the Retirement System, and who worked more than 15 hours per week and 720 hours in a period of 12 months or 1,170 hours in a period of 18 months must become a member of the Retirement System beginning with the first payroll after January 1, 1987, and shall continue membership while an employee of the same employer. Any employee hired on or after July 1, 1984, but before January 1, 1987, who is not a member of the Retirement System, and who did not work more than 15 hours per week and 720 hours in a period of 12 months or 1,170 hours in a period of 18 months, shall be given an option, to be exercised before July 1, 1987, to become a member of the System, and to continue membership while an employee of the same employer regardless of the number of hours worked.

Any such employee who becomes a member of the System under the preceding paragraph may also elect to purchase the service credit that would have accrued had the employee joined the Retirement System on the first day of employment. Any such employee who becomes a member of the System who had service with another participating local district during the period July 1, 1984, to January 1, 1987, may also purchase service credits for that period of employment. Payment of any back contributions shall begin with the payroll immediately following notice from the Retirement System of the amount due. The repayment must be made according to the rules of the Retirement System governing repayments.

Before January 1, 1987, written notice of these options shall be sent by 1st class mail or otherwise be given by each employer to all affected employees, including former employees. Mail notice shall be sent to the last known address of the former employees. In order to exercise these options, written notification must be received by the employer on or before June 30, 1987, and a copy promptly sent to the Retirement System offices. Failure to exercise these options within the time allotted shall make the employee's previous service non-creditable, and shall constitute a waiver of repurchase rights.

This subparagraph does not apply to any employee who elected not be a member under 5 MRSA, §18252(1).

(2) Current employees hired on or after July 1, 1984, but before January 1, 1987, who did not work more than 15 hours per week and 720 hours in a period of 12 months or 1,170 in 18 months, and who became members of the Retirement System at the time of hire shall have an option, to be exercised before July 1, 1987, to terminate their membership and obtain a return of their contributions and accumulated interest. This option shall be presented to affected employees, and exercised, as above. Failure to exercise this limited option within the time allotted shall constitute a final rejection of the option.

 D. In lieu of the provisions of paragraph B, a participating local district may elect to require that, except as provided in subsection E, regardless of employment status, all persons in the employ of a participating local district on June 30, 1991, who are not members of the Retirement System, shall become members as of July 1, 1991, and any employee of a participating local district hired after June 30, 1991, shall become a member of the Retirement System from the first day of employment.

E. On and after January 1, 1992, membership in the Maine Public Employees Retirement System for part-time, seasonal or temporary employees is governed by Chapter 802 of the Board's rules. For purposes of this subsection, "part-time, seasonal or temporary employee" means a part-time, seasonal or temporary employee as defined by 26 CFR Part 31 and by Chapter 802.

F. The requirements of paragraphs A, B, C and D are subject to the following exceptions:

(1) A retired participating local district employee receiving a retirement benefit from the Retirement System may not become a member as an employee of the participating local district from which the employee retired except as provided by 5 MRSA, Section 18457.

(2) A person receiving per diem compensation only is not eligible for membership in the System.

(3) A person employed by a school in which he is enrolled as a full-time student is not eligible for membership in the System.

(4) Membership is optional for elected officials, officials appointed for a fixed term and a chief administrative officer of a participating local district.

(5) The options provided by 5 MRSA §18252 are available only to employees who are employees of participating local districts having Section 218 agreements and who were covered by the United States Social Security Act under the Section 218 agreement prior to July 1, 1991.

(6) The requirements of paragraphs A. B and C do not apply to any class of employees, otherwise provided for by local pension provisions, who are exempt from coverage at the time that a municipality approves participation in the Retirement System.

(7) Membership is optional for employees in the service of a participating local district on the date that participating local district begins.

(8) A person employed as an election worker who is not paid more than $100 in a year is not eligible for membership in the System.

(9) A volunteer fire fighter is not eligible for membership in the System.

(10) Persons hired to respond to a natural disaster are not eligible for membership.

**5. Participating District Employees - Creditable Service**

 Except as provided in section 3(C) and (D), creditable service for participating local district employees will be granted on the same basis granted for State employees; that is, the classification of the local district will govern the length of service granted in the same manner as for State employees.

**6. Applicability**

 A. Except as provided in Section 4, the above rules and regulations shall apply to membership and creditable service rendered for State employees and employees of participating local districts after January 1, 1978.

 B. Creditable service rendered by members classified as intermittent permanent, intermittent seasonal, intermittent project, limited period, part-time limited period, project, part-time project, part-time seasonal, legislative employees and teachers in State institutions prior to January 1, 1978, will be on the same basis as granted subsequent to this date.

C. Creditable service rendered by seasonal and part-time permanent employees prior to January 1, 1978, will be granted on the basis of M.S.R.S. procedures in effect before January 1, 1978.

D. These regulations apply only to members (State and Participating District) on January 1, 1978, and does not include those retired on or before that date.

STATUTORY AUTHORITY: 5 MRSA, §17103, sub-§4; §17653; §18251; and §18256

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