

**CHAPTER 431****SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES****§19001. Declaration of policy**

In order to extend to employees of the political subdivisions of the State of Maine, and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., sec. 42), whether members of existing retirement or pension systems or not, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act. This chapter shall apply to employees of Maine Maritime Academy who are members of an existing retirement or pension system. This chapter shall not apply to teachers who are under a state or local government pension or retirement plan, except teachers at the Maine Maritime Academy. For the purposes of bringing sheriffs and their deputies under social security, these law enforcement officers shall be deemed policemen. [PL 1985, c. 801, §§ 5, 7 (NEW).]

**SECTION HISTORY**

PL 1985, c. 801, §§5,7 (NEW).

**§19002. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1985, c. 801, §§5, 7 (NEW).]

**1. Civilian employees of the Maine National Guard.** The phrase "the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42)" means the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42) and paid from funds allotted to the Maine National Guard by the Department of Defense and such employees shall, for the purpose of this chapter, be deemed to be employees of the State of Maine; provided that this chapter shall apply to the Maine National Guard, with respect to such employees, as if it constituted a "political subdivision" within the meaning of this section. [PL 1985, c. 801, §§5, 7 (NEW).]

**2. Employee.** The term "employee" includes an officer of a political subdivision of the State. [PL 1985, c. 801, §§5, 7 (NEW).]

**3. Employment.** The term "employment" means any service performed by an employee in the employ of any political subdivision of the State, for such employer, except service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this chapter. Employment in positions covered by any retirement system supported wholly or in part by the State or any of its subdivisions may not be included in such agreement. [PL 1985, c. 801, §§5, 7 (NEW).]

**4. Federal Insurance Contributions Act.** The term "Federal Insurance Contributions Act" means the Federal Internal Revenue Code, chapter 9, subchapter A, as such Code has been and may from time to time be amended. [PL 1985, c. 801, §§5, 7 (NEW).]

**5. Federal Security Administrator.** The term "Federal Security Administrator" includes an individual to whom the Federal Security Administrator has delegated any of the Federal Security Administrator's functions under the Social Security Act with respect to coverage under that Act of employees of states and their political subdivisions.

[RR 2023, c. 2, Pt. B, §160 (COR).]

**6. Political subdivision.** The term "political subdivision" includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine System, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision.

[PL 1987, c. 402, Pt. A, §75 (AMD).]

**7. Social Security Act.** The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as such Act has been and may from time to time be amended.

[PL 1985, c. 801, §§5, 7 (NEW).]

**8. State agency.** The term "state agency" means the Maine Public Employees Retirement System.

[PL 1985, c. 801, §§5, 7 (NEW); PL 2007, c. 58, §3 (REV).]

**9. Wages.** The term "wages" means all remuneration for employment as defined, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that Act.

[PL 1985, c. 801, §§5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 402, §A75 (AMD). PL 2007, c. 58, §3 (REV). RR 2023, c. 2, Pt. B, §160 (COR).

#### §19003. Federal-state agreement

The state agency, with the approval of the Governor, is authorized to enter on behalf of the State into an agreement with the Federal Security Administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to employees of any political subdivision of the State and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42), with respect to services specified in such agreement which constitute "employment" as defined in section 19002. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Federal Security Administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that: [PL 1985, c. 801, §§ 5, 7 (NEW).]

**1. Benefits.** Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of the Social Security Act, Title II;

[PL 1985, c. 801, §§ 5, 7 (NEW).]

**2. Contributions.** The State shall pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 19002, equal to the sum of the taxes which would be imposed by the Federal Insurance

Contributions Act, sections 1400 and 1410, if the services covered by the agreement constituted employment within the meaning of that Act;

[PL 1985, c. 801, §§ 5, 7 (NEW).]

**3. Effective date.** Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the first day of January, 1951; and

[PL 1985, c. 801, §§ 5, 7 (NEW).]

**4. Services covered.** All services, which constitute employment as defined in section 19002, are performed in the employ of a political subdivision of the State, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 19005, shall be covered by the agreement.

[PL 1985, c. 801, §§ 5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

#### §19004. Coverage of employees of political subdivisions

**1. Plan.** Each political subdivision of the State following the approval of the town meeting of a town or the governing body of a city, district or other instrumentality is authorized to submit for approval by the state agency a plan for extending the benefits of the Social Security Act, Title II, in conformity with applicable provisions of such Act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

A. It is in conformity with the requirements of the Social Security Act, and with the agreement entered into under section 19003; [PL 1985, c. 801, §§5, 7 (NEW).]

B. It specifies the source or sources from which the funds necessary to make the payments required by subsection 3, paragraph A, and by subsection 4 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose; [PL 1985, c. 801, §§5, 7 (NEW).]

C. It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan; [PL 1985, c. 801, §§5, 7 (NEW).]

D. It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the Federal Security Administrator may from time to time find necessary to assure the correctness and verification of such reports; and [PL 1985, c. 801, §§5, 7 (NEW).]

E. It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the Social Security Act. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1985, c. 801, §§5, 7 (NEW).]

**2. Hearing.** The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection 1 and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

[PL 1985, c. 801, §§5, 7 (NEW).]

### 3. Contributions.

A. Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to wages, as defined in section 19002, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rate specified in the applicable agreement entered into by the state agency under section 19003. [PL 1985, c. 801, §§5, 7 (NEW).]

B. Each political subdivision required to make payments under paragraph A is authorized, in consideration of the employee's retention in, or entry upon, employment after December 31, 1986, to impose upon each of its employees, as to services that are covered by an approved plan, a contribution with respect to the employee's wages, as defined in section 19002, not exceeding the amount of tax that would be imposed by section 1400 of the Federal Insurance Contributions Act if those services constituted employment within the meaning of that Act, and to deduct the amount of the contribution from the employee's wages as and when paid. Contributions so collected must be paid into the Contribution Fund in partial discharge of the liability of the political subdivision or instrumentality under paragraph A. Failure to deduct a contribution does not relieve the employee or employer of liability therefor. [RR 2023, c. 2, Pt. B, §161 (COR).]  
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**4. Delinquent payments.** Delinquent payments due under subsection 3, paragraph A, may, with interest at the rate of 6% per year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the State.  
[PL 1985, c. 801, §§5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5, 7 (NEW). RR 2023, c. 2, Pt. B, §161 (COR).

#### §19005. Contribution Fund

The "Contribution Fund," as established, shall consist of and there shall be deposited in the fund: All contributions, interest and penalties collected under section 19004; all money appropriated thereto under this chapter; any property or securities and earnings thereof acquired through the use of money belonging to the fund; interest earned upon any money in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received for the fund from any other source. All money in the fund shall be mingled and undivided. Subject to this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all money and property or securities belonging thereto. The state agency shall invest the fund pursuant to section 17153, subsection 3 and credit all interest and income earned in excess of that needed, for the purposes set forth in this section, to the expense fund of the state agency, to be used to prepare and, if approved by the Legislature, implement a portable and integrated retirement plan for participating local districts and to defray the cost of administration for those districts that participated in the social security system through the Maine Public Employees Retirement System. The state agency may perform any and all acts whether or not specifically designated, which are necessary to the administration of the Contribution Fund and are consistent with this chapter. [PL 1989, c. 77, §1 (AMD); PL 2007, c. 58, §3 (REV).]

The Contribution Fund shall be established and held separate and apart from any other funds or money of the State and shall be used and administered exclusively for the purpose of this chapter. Subject to this section, withdrawals from the fund shall be made for, and solely for, payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under section 19003; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. [PL 1989, c. 77, §1 (AMD).]

From the Contribution Fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 19003 and the Social Security Act. [PL 1985, c. 801, §§ 5, 7 (NEW).]

The Treasurer of State shall be ex officio treasurer and custodian of the Contribution Fund and shall administer such fund in accordance with this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with this section and with such regulations as the state agency may prescribe pursuant thereto. [PL 1985, c. 801, §§ 5, 7 (NEW).]

There are authorized to be appropriated biannually to the Contribution Fund, in addition to the contributions collected and paid into the Contribution Fund under section 19004, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under section 19003. [PL 1985, c. 801, §§ 5, 7 (NEW).]

The state agency shall submit to each regular session of the Legislature, at least 90 days in advance of the beginning of each session, an estimate of the amounts authorized to be appropriated to the Contribution Fund by the preceding paragraph of this section for the next appropriation period. [PL 1985, c. 801, §§ 5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 77, §1 (AMD). PL 2007, c. 58, §3 (REV).

#### **§19006. Rules and regulations**

The state agency shall make and publish such rules and regulations, not inconsistent with this chapter, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this chapter. [PL 1985, c. 801, §§ 5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

#### **§19007. Cost of administration**

Any cost of administering this chapter may be prorated among the political subdivisions joining this plan. A revolving fund is established from which costs of administration shall be paid and to which shall be credited the amounts billed to and received from the political subdivisions in the plan. [PL 1985, c. 801, §§ 5, 7 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

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