A REPORT TO THE
123rd LEGISLATURE
FIRST REGULAR SESSION

Final Report of the Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

December 2006

Members:
Senator Ethan Strimling, Co-chair
Representative John L. Tuttle, Jr., Co-chair
Senator Lois A. Snowe-Mello
Representative Herbert Clark
Representative Richard M. Sykes
Scott Burnheimer
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I. Final Report

The Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers was created by Resolves of 2005, Chapter 181 and charged with the duty to study the following issues:

1. Whether corrections officers and mental health workers should have uniform retirement benefits;

2. Whether corrections officers and mental health workers, regardless of their age, should be eligible to retire after 25 years of service without a reduction in benefits;

3. Which job classifications should be included in this retirement plan, if the plan is recommended by the commission; and

4. Possible ways of funding this retirement plan, if the plan is recommended by the commission.

The resolve called for the Commission to submit a report by November 1, 2006. Pursuant to authorization in the resolve to apply for an extension of time, the Commission asked for and received an extension to December 6, 2006 to complete its meetings and submit its report.

The Commission held its first meeting on November 9, 2006 to discuss the prioritization of issues and the expected outcomes of the study. Members talked about obtaining data on the range of positions that are classified as corrections officers and mental health workers, and, particularly, on the different retirement plans presently applicable to those workers. The Commission reviewed its meeting schedule.

At the second meeting on November 14, 2006, the Commission heard remarks from a representative of the Maine State Retirement System on the history and explanation of special plans. They also discussed current statutory provisions providing special plans for particular groups of state workers and reviewed data on corrections and mental health workers. The Commission decided to focus on evaluating the costs of including these workers for all years of service in the 1998 Special Plan.

The Commission held its third meeting on November 28, 2006 and discussed a proposal for legislation to add mental health workers, whose duties include the direct care of patients or residents, to the 1998 Special Plan and to provide corrections personnel already under the plan with benefits calculated based on all of their years of service. After a discussion of funding strategies, the Commission concluded that there were unlikely to be any general fund revenues available to fund the increased liability for the proposed additional retirement benefits, but elected to propose, as part of recommended legislation, that a cascade approach be adopted that would use surplus budget funds, when available, to accumulate until all unfunded liability and normal costs for a 6-year

period of time could be paid for based on an actuarial assessment. The Commission requested staff to prepare suggested legislation that included these provisions.
The Commission met for the final time on December 5, 2006. They reviewed and discussed draft legislation, making changes to the document they were working from. At the conclusion of debate, the Commission voted 6 to 0 to recommend legislation, a copy of which is attached hereto as Appendix B, to the joint standing committee of the Legislature having jurisdiction over labor matters and to the Legislative Council.

The suggested legislation provides that, contingent upon the full actuarial costs having been accumulated in an account of the Maine State Retirement System, mental health workers are added to the 1998 special retirement plan for certain Maine State Retirement System members and service retirement benefits for corrections and mental health workers included in the 1998 special retirement plan are computed on the basis of all the member's creditable service, regardless of when that service was earned. The bill would provide for funding the full actuarial costs of new corrections and mental health worker retirement benefits by creating a reserve account and transferring funds to it from the Service Benefit Reserve Account of the Maine State Retirement System until the accumulation of funds to cover the full actuarial cost, including normal costs for 6 years, is complete. Under the bill, retirement service credit could not be given, and increased benefits could not be paid, until the full actuarial costs of the liability for the increased value of that service had been funded.

APPENDIX A

Authorizing Legislation, Chapter 181, S.P. 246 – L.D. 748
Resolve, Establishing the Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

RESOLVES
Second Regular Session of the 122nd

CHAPTER 181
S.P. 246 - L.D. 748

Resolve, Establishing the Commission To Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

Sec. 1. Commission established. Resolved: That the Commission To Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers, referred to in this resolve as "the commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of 9 members appointed as follows:

1. Two members of the Senate, appointed by the President of the Senate;

2. Three members of the House of Representatives, appointed by the Speaker of the House;

3. One member representing corrections officers, appointed by the President of the Senate;

4. One member representing employers of mental health workers, appointed by the President of the Senate;

5. One member representing employers of corrections officers, appointed by the Speaker of the House; and

6. One member representing mental health workers, appointed by the Speaker of the House; and be it further

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair of the commission and the first-named House of Representatives member is the House chair of the commission; and be it further

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 15 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the commission, which must be no later than September 1, 2006; and be it further

Sec. 5. Duties. Resolved: That the commission may hold up to 4 meetings and shall study the following issues:

1. Whether corrections officers and mental health workers should have uniform retirement benefits;

2. Whether corrections officers and mental health workers, regardless of their age, should be eligible to retire after 25 years of service without a reduction in benefits;

3. Which job classifications should be included in this retirement plan, if the plan is recommended by the commission; and

4. Possible ways of funding this retirement plan, if the plan is recommended by the commission; and be it further

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission; and be it further

Sec. 7. Compensation. Resolved: That the legislative members of the commission are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission; and be it further

Sec. 8. Report. Resolved: That, no later than November 1, 2006, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the joint standing committee of the Legislature having jurisdiction over labor matters and the Legislative Council. The commission is authorized to introduce legislation related to its report to the First Regular Session of the 123rd Legislature at the time of submission of its report; and be it further

Sec. 9. Extension. Resolved: That, if the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

Sec. 10. Commission budget. Resolved: That the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for its approval. The commission may not incur expenses that would result in the commission's exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall promptly provide the commission chairs and staff with a status report on the commission budget, expenditures incurred and paid and available funds.

Effective August 23, 2006.

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APPENDIX B

Membership list
Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

Resolve 2005, Chapter 181

Tuesday, January 2, 2007

Appointment(s) by the President

Sen. Ethan Strimling - Chair
211 Spring St.
Portland, ME 04102
207 775-0105

Senate Member

Sen. Lois A. Snowe-Mello
177 Mechanic Falls Road
Poland, ME 04274
207 784-9136

Senate Member

Laura Fisher
109 Cushman Road
Winslow, ME 04901
207 873-3648

Representing Employers of Mental Health Workers

William Towers
32 Main Street
Oakland, ME 04963
207 649-0439

Representing Corrections Officers

Appointment(s) by the Speaker

Rep. John L. Tuttle Jr. - Chair
176 Cottage Street
Sanford, ME 04073
207 324-5964

House Member

Rep. Herbert Clark
180 Bowdoin Street
Millinocket, ME 04462
207 723-5746

House Member

Rep. Richard M. Sykes
P.O. Box 86
Harrison, ME 04040
207 583-2958

House Member

Scott Burnheimer
7 Louise Street
Gorham, ME 04038
207 839-6639

Representing Employers of Corrections Officers

Dell Clarkson
189 Bolling Drive
Bangor, ME 04401
207 299-5836

Representing Mental Health Workers

Staff:

John Mitchell 287-1670
OPLA

APPENDIX C

Draft Legislation
An Act to Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers

	Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers

SUGGGESTED LEGISLATION

Sponsor: Pursuant to Resolves of 2005, Chapter 181
LA: John T. Mitchell
File Name: G:\COMMITTEES\LAB\BILLDRFT\123rd1st\091201.doc
LR (item)#: 0912(01)
Date: December 12, 2006

Title: An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers

Be it enacted by the People of Maine as follows:

Sec. 1. 5 MRSA §17851-A, sub-§1, ¶N, is enacted to read:

N. Employees of the Department of Health and Human Services as of January 1, 2000, or hired thereafter, who are employed in mental health institutions and whose duties involve providing direct care to residents or patients of those institutions or to wards of the state. For purposes of this paragraph, "direct care" means services or treatment essential to everyday security, health and wellbeing.

Sec. 2. 5 MRSA §17851-A, sub-§ 2, is amended to read:

2. Qualification for benefits. A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I~~ J to K; after June 30, 2002 for employees identified in subsection 1, paragraph M; and any employee identified in subsection 1, paragraphs I, L, and N qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

Sec. 3. 5 MRSA §17851-A, sub-§ 3, ¶A is amended to read:

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; and after June 30, 2002 for employees identified in subsection 1, paragraph M, in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, paragraphs I, L and N regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included.

Sec. 4. 5 MRSA §17851-A, sub-§ 4, ¶A is amended to read:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I~~ J to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when earned for employees identified in subsection 1, paragraphs I and N; if service credit was purchased by repayment of an earlier refund of accumulated contributions for service in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I~~ J to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when purchased for employees identified in subsection 1, paragraphs I and N; or if service credit was purchased

by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs ~~I~~ J to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for employees identified in subsection 1, paragraph M; and regardless of when earned for employees identified in subsection 1, paragraphs I and N, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced as provided in section 17852, subsection 3, paragraphs A and B.

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. 5. 5 MRSA §17851-A, sub-§4, ¶E, is further amended to read:

E. The service retirement benefit of a member to whom subsection 1, ~~paragraph~~ paragraphs I, L or N applies and who qualifies for service retirement benefits under subsection 2 must be computed under section 17852, subsection 1, paragraph A on the basis of all of the member's creditable service in the capacity specified in subsection 1, ~~paragraph~~ paragraphs I, L or N, as appropriate, regardless of when that creditable service was earned, except that for a member qualifying under subsection 2, paragraph B:

(1) If the member had 10 years of service on July 1, 1993, the benefit must be reduced as provided in section 17852, subsection 3, paragraphs A and B for each year the member's age precedes 55 years of age; or

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. 6. 5 MRSA §17851-A, sub-§5, is further amended to read:

5. Contributions. Notwithstanding any other provision of subchapter 3, after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; ~~and~~ after June 30, 2002 for employees identified in subsection 1, paragraph

M and for employees identified in subsection 1, paragraph N, a member in the capacities specified in subsection 1 must contribute to the retirement system or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

Sec. 7. Corrections and Mental Health Workers Reserve; established. Notwithstanding the Maine Revised Statutes, Title 5, section 1536, there is established in the General Fund the Corrections and Mental Health Workers Reserve for the purpose of accumulating funds that would otherwise be payable to the Retirement Allowance Fund. The Corrections and Mental Health Workers Reserve must be used to reserve funds that, at the sole discretion of the Legislature, may be appropriated to meet the full actuarial costs arising from the implementation of sections 1 to 6 of this Act, including normal cost rates for the next 6 years. Any funds remaining in the Service Corrections and Mental Health Workers Reserve at the end of each fiscal year must be carried forward to be used for the same purposes. Expenditures may not be made from this reserve and appropriations may not be considered to be made to the Retirement Allowance Fund or the Maine State Retirement System from this reserve, without a further authorization of the Legislature.

Sec. 8. Funding of Corrections and Mental Health Workers Reserve. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1536, the following provisions control the transfer of funds that would otherwise qualify for transfer to the Retirement Allowance Fund from unappropriated surplus of the General Fund. Any funds that would otherwise qualify for transfer to the Retirement Allowance Fund under Title 5, section 1536 must instead be transferred to the Corrections and Mental Health Workers Reserve established in section 7 of this Act, up to the amount certified by the Maine State Retirement System as the full actuarial cost of implementing sections 1 to 6 of this Act, including normal cost rates for the next 6 years. Any remaining funds not needed to meet the requirements described in this section must be transferred to the Retirement Allowance Fund for the purposes described in Title 5, section 1536.

Sec. 9. Funding of benefit changes that are effective prospectively after the effective date of this chapter and payment of the related normal cost increase in the current and following five years. With respect to an employee's service after September 1, 2007 in a position to which this Act applies, the increase in normal cost contributions resulting from the increased normal cost rate that is necessary to support the changed benefits as they are earned must be estimated by the Maine State Retirement System based on the total payroll for the positions to which this Act applies as of the pay date closest to August 1, 2007. The amount of the increased normal cost contributions must be paid from the funds transferred to the Corrections and Mental Health Workers Reserve under section 8 of this Act. The system shall pay these increased contributions not later than September 1 of each year, respectively, through September 1, 2012, each as a single lump sum, reducing the funds held in the Corrections and Mental Health Workers Benefit Reserve Account by the amount required to fully pay the estimated

amount of the increased contributions for the remainder of each respective year and transferring that amount on the books of the system to the general assets of the state employee and teacher retirement plan. After the last payroll of each of the current and following five years is paid, the system shall reconcile, for each year, the estimated with the required actual amount of the increased contributions, adjusting the reduction of the Corrections and Mental Health Workers Benefit Reserve accordingly. Effective July 1, 2013, the normal cost rate for the positions to which this Part applies must be adjusted to the normal cost rate determined by the system and its actuary to thereafter support the changed benefits as they are earned, to be paid to the system in the normal course of payment of retirement contributions.

Sec. 10. Funding of the liability for the increased values of service rendered between August 31, 1984 and September 1, 2013. No retirement service credit related to the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is due to or may be given to any employee until the full actuarial cost of the total liability for the increased value of all of that service for all employees to whom this Act applies has been paid. The amount required to pay the full actuarial cost must be accumulated by the Maine State Retirement System through funds provided to it for that purpose. Funds so provided must be held by the system in the Corrections and Mental Health Workers Benefit Reserve until the full actuarial cost is accumulated in that account. Funds to be held in the Corrections and Mental Health Workers Benefit Reserve to pay this cost consist of the funds transferred under section 8 of this Act, funds provided thereafter for the same purpose and any investment earnings on the funds, reduced by amounts required to pay the increased normal cost contributions in the current and following five years as provided in section 9 of this Act and by any investment losses. Funds in the Corrections and Mental Health Workers Benefit Reserve must be invested by the system with the general assets of the state employee and teacher retirement plan and those funds' share of investment earnings and losses must be attributed to the Corrections and Mental Health Workers Benefit Reserve.

The full actuarial cost of the liability for the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is the amount of the liability for the increased value, as calculated by the Maine State Retirement System's actuary, increased by the interest cost that arises because the full cost of the now-increased value of the service already rendered was not paid to the system at the time the service was rendered. Interest costs continue to accrue until the full actuarial cost of the increased value has been accumulated in the Corrections and Mental Health Workers Benefit Reserve and is thereafter transferred on the books of the system from the Corrections and Mental Health Workers Benefit Reserve to the general assets of the state employee and teacher retirement plan. If an actuarially significant change in the amount of the liability for the increased value, as determined by the system and its actuary, occurs before the full actuarial cost has been accumulated, the full actuarial cost must be increased or decreased accordingly.

Sec. 11. Credit for service rendered between August 31, 1984 and September 1, 2013; contingency. No retirement service credit related to the increased value of service rendered between August 31, 1984 and September 1, 2013 in positions to which this Act applies is due to or may be given to any employee until the Executive Director of the Maine State Retirement System certifies to the Governor, the Commissioner of Corrections and the Commissioner of Health and Human Services that the amount of the full actuarial cost has been accumulated in the Corrections and Mental Health Workers Benefit Reserve and has been transferred on the books of the Maine State Retirement System to the general assets of the state employee and teacher retirement plan, thereby funding the full actuarial costs of the liability for the increased value of that service.

Sec. 12. Effective date. The provisions of sections 1 to 6 of this Act do not take effect unless and until the Legislature takes additional action to direct payment of the full actuarial costs of those provisions to the Maine State Retirement System. The full actuarial costs of those provisions must be adjusted upward, if necessary, based upon actuarial projections of the Maine State Retirement System. Sections 1 to 6 may not be construed to create any contractual claim or right or any other claim for any state employee. Sections 7 to 11 and this section of this Act become effective immediately upon enactment.

SUMMARY

Contingent upon the full actuarial costs having been accumulated in a reserve of the Maine State Retirement System, this bill adds mental health workers to the 1998 special retirement plan for certain Maine State Retirement System members and provides that service retirement benefits for corrections and mental health workers included in the 1998 special retirement plan be computed on the basis of all the member's creditable service, regardless of when that service was earned. The bill provides for funding the full actuarial costs of new corrections and mental health worker retirement benefits by creating a reserve and transferring funds to it that would otherwise qualify for transfer to the Retirement Allowance Fund from unappropriated surplus of the General Fund. Transfers continue until the accumulation of funds to cover the full actuarial cost, including normal costs for 6 years, is complete. Under the bill, retirement service credit cannot be given, and increased benefits cannot be paid, until the full actuarial costs of the liability for the increased value of that service has been funded.