

Date: April 9, 2025

To: Senator Michael Tipping, Senate Chair
Representative Amy Roeder, House Chair
Members, Joint Standing Committee on Labor

From: Bill Brown, Director of Actuarial and Legislative Affairs

Subject: LD 1218, An Act to Allow Certain County Commissioners Who Are Maine Public Employees Retirement System Members to Switch to the Legislative Retirement Program

Good morning Chair Tipping, Chair Roeder and the other distinguished members of the Joint Standing Committee on Labor. I am Bill Brown, Director of Actuarial and Legislative Affairs for the Maine Public Employees Retirement System (MainePERS).

MainePERS is neither for nor against LD 1218, An Act to Allow Certain County Commissioners Who Are Maine Public Employees Retirement System Members to Switch to the Legislative Retirement Program. We are here to provide information and to offer any assistance the committee may request regarding this bill.

Some counties permit elected officials, such as County Commissioners, to be treated as employees, including being eligible to receive retirement benefits through the Participating Local District (PLD) plan administered by MainePERS. MainePERS also administers the Legislative Retirement Program for legislators. While the State pays the employer pension costs for legislators, it does not contribute to the funding of benefits for PLD members, and the costs of that plan are fully paid by the PLD employers and members.

LD 1218 seeks to allow County Commissioners who are PLD members and who have prior service as legislators the choice to transfer their service from county plans to the state funded Legislative Retirement Program. As drafted, LD 1218 directs only that the contributions made by the Commissioner be transferred to the Legislative Program. This creates an Unfunded Actuarial Liability (UAL) within the Legislative Program by not fully funding the transferred benefits. To reduce this increased liability, assets paid by the County in support of the benefits earned to date could also be transferred to the Legislative Program. This would be consistent with how other transfers of service are handled. However, this would not fully-fund the transferred benefits and would impose on the Legislative Program an unfunded actuarial liability.

Section 2 of LD 1218 provides that all future employee contributions by the Commissioner be directed to the Legislative Program. Employer and member contribution rates and the manner in which rates are determined are different for the PLD Plans from that of the Legislative Program. If benefits are to be earned under the Legislative Program, PLD employers would be required to pay the associated rates for that Program for any Commissioners participating in the Legislative Program.

Federal law applicable to qualified governmental pension plans does not permit employees to choose between retirement plans with differing employee contribution rates except upon first hire. The Legislative Program currently requires members to contribute 7.65%. The employee contribution rates in the PLD plan are updated annually and vary between 3.35 and 7.5% for FY25. Should the Committee decide to advance LD 1218, we recommend requiring all County Commissioners covered by the bill be transferred to the Legislative Program, eliminating the choice and the federal compliance issue.

This bill will likely have a fiscal impact on the Legislative Program by transferring at least some portion of the responsibility for the benefits of these county employees to the state. The Legislative Program is currently overfunded, since many legislators do not vest or receive a benefit from the Program. Permitting the transfer of County Commissioner service to the Legislative Program could increase the number of people who vest in that Program, thus increasing the benefits paid out. Further, if the salaries associated with the county commissioner service are significantly higher than those of legislators, the actual benefit paid out will also be higher, again potentially increasing the long-term costs of the Legislative Program.

Awaiting guidance from the committee, we have not yet obtained costs for this bill. Any costs that we could obtain at this time would be limited to existing county commissioners who have prior legislative service. We cannot predict whether the enactment of this bill might result in future County Commissioners with legislative service who might otherwise decline membership in the PLD Plan opting to join the Legislative Program.

On a technical note, Section 4 of the bill is not necessary to carry out the purposes of LD 1218. Section 4 merely restates the earlier provisions of the bill. Additionally, it is unclear whether rulemaking would be necessary to implement this bill and would respectfully request that Section 5 of the bill be amended to permit but not require such rulemaking. We are happy to work with the sponsor and the analyst on amended language to address this issue.

Thank you for your consideration of this testimony. I am happy to answer questions and we will be present for the work session.