

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1939

H. P. 1725

House of Representatives, June 18, 1975

Reported by Majority from the Committee on Veterans and Retirement and printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Reform the State Retirement System.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 1001, sub-§ 9, as amended by PL 1965, c. 186, § 1, is further amended to read:

9. **Earnable compensation.** "Earnable compensation" shall mean actual compensation, including maintenance if any, but shall not include payment for more than 30 days of accumulated or accrued sick leave or unused vacation leave or a combination of both, nor include any other payment which is not compensation for actual services rendered or which is not paid at the time such services are rendered. ~~In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money.~~ Any money paid by a school administrative unit an employer under an annuity contract for the future benefit of an employee shall be considered part of the employee's earnable compensation.

Sec. 2. 5 MRSA § 1001, sub-§ 9, as last amended by PL 1965, c. 186, § 1, is further amended by adding a new paragraph at the end to read:

The earnable compensation of a member retired with a disability retirement allowance under section 1122 shall be assumed, for the purposes of determining benefits under this chapter, to be continued after his date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1128.

Sec. 3. 5 MRSA § 1001, sub-§ 10-A, as enacted by PL 1971, c. 17, § 1, is repealed.

Sec. 4. 5 MRSA § 1001, sub-§§ 10-B and 10-C, are enacted to read:

10-B. Executive body. "Executive body" shall mean the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

10-C. Fiduciary. "Fiduciary" shall mean either a bank or professional investment management.

Sec. 5. 5 MRSA § 1001, sub-§ 11-A is enacted to read:

11-A. Local district. "Local district" shall mean any county, municipality, quasi-municipal corporation, incorporated instrumentality of the State or of one or more of its political subdivisions, or any incorporated association of employees of the State or of such local districts, or incorporated association of such local districts, or any entity eligible to become a participating local district, or presently participating in the system, under this section as in effect immediately prior to January 1, 1976.

Sec. 6. 5 MRSA § 1005, as enacted by PL 1973, c. 764, is repealed and the following enacted in place thereof:

§ 1005. Proposed amendments

1. Review of statutory amendments. All amendments to this chapter that are proposed to be enacted by the Legislature shall be reviewed by the board of trustees, which shall report to the proper legislative committee or authority on the impact of each such amendment on the retirement system. Such report shall state the impact on all aspects of the system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, its consistency with other provisions of this chapter, and the value of such amendments to the system. Such report shall also include a separate evaluation of each amendment by the actuary and by the Director of Personnel, which shall be requested by the board of trustees and included with their report.

2. Review of special resolves. All special resolves or other legislation which propose to grant benefits to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this chapter but for the enactment of such law, shall be reviewed by the board of trustees in the manner provided under subsection 1.

3. Effect on accrued benefits. No amendment to this chapter shall cause any reduction in the amount of benefits which would be due to the member based on creditable service, compensation, employee contributions and the provisions of this chapter on the date immediately preceding the effective date of such amendment.

Sec. 7. 5 MRSA § 1031, sub-§ 1, as last amended by PL 1973, c. 122, § 1, is further amended to read:

1. Board of trustees. The ~~general administration and~~ responsibility for the proper operation of the retirement system and for making this chapter

effective are vested in a board of 7 trustees. The board shall formulate policies and exercise general supervision under this chapter. Administrative ~~duties~~ responsibility, including approval of the payment of all benefits under this chapter, shall be vested in the executive director appointed under subsection 6. The board, as heretofore established, shall consist of a member duly elected by the Maine Teachers' Association; a member duly elected by the Maine State Employees' Association; 3 persons appointed by the Governor with the advice and consent of the Council, at least 2 of whom shall be qualified through training ~~and~~ or experience in the field of investments, accounting, banking, insurance or law, and one of whom shall be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association; a person who is a member of the Maine State Retirement System through a participating local district and who shall be appointed by the governing body of the Maine Municipal Association; a person who is the recipient of a retirement allowance through the Maine State Retirement System and who shall be selected by the foregoing members of the board of trustees from a list or lists of nominees submitted by retired state employees ~~retired teachers~~ and retired participating local district employees, or by a committee comprised or representatives of said groups. Each member of the board shall serve for a term of 3 years, provided that of those members appointed on the expiration of the terms of the present members: The term of the Maine Teachers' Association representative, the Maine State Employees' Association representative and one public representative, as designated by the Governor on appointment, shall expire on December 31, 1978; the term of the Maine Municipal Association representative and the Maine Retired Teachers' Association representative, as appointed by the Governor, shall expire on December 31, 1977; and the term of the retirement beneficiary representative and one public representative, as designated by the Governor on appointment, shall expire on December 31, 1976. A trustee shall continue to serve after the expiration of his term until his successor is appointed and qualified, but such continuation as a trustee shall not change the expiration date of the trustee's term. The term of all appointments to membership, where a term of membership has expired, shall commence with such expiration date regardless of the effective date of such new appointments. Appointments to any vacancy caused by death, resignation or ineligibility shall be for the unexpired portion of the term.

The board of trustees shall meet at least once in each month for the transaction of such business as may properly come before it.

Sec. 8. 5 MRSA § 1031, sub-§ 2, as last amended by PL 1971, c. 17, § 3, is further amended to read:

2. Expenses. The trustees shall be reimbursed from the funds of the retirement system for all necessary expenses that they may incur through service on the board of trustees and shall be entitled to a payment of ~~\$35~~ \$50 per diem in addition to expenses when engaged in the performance of authorized retirement system duties.

Sec. 9. 5 MRSA § 1031, sub-§ 6, as last amended by PL 1971, c. 17, § 3, is further amended by adding after the first sentence, the following new sentence:

The personnel staff of the executive director shall include employees qualified to administer the payment of disability benefits under the retirement system and to investigate applications for disability retirement benefits, or the board of trustees shall authorize the contracting for professional services for such administration and investigation.

Sec. 10. 5 MRSA § 1031, sub-§ 8, as last amended by PL 1971, c. 17, § 5, is further amended to read:

8. Record errors. ~~The board of trustees shall meet at least once in each month for the transaction of such business as may properly come before it~~ The head of any department upon request from the ~~board of trustees executive director~~ shall promptly furnish ~~it him~~ with such information as shall be required to effectuate this chapter. Whenever the ~~board of trustees executive director~~ shall find it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, ~~it he~~ may, subject to the approval of the ~~executive director and~~ actuary, use estimates thereof on any basis which in ~~its his~~ judgment is fair and just. The ~~board of trustees executive director~~, upon discovery of any error in any record of the system, shall, as far as practicable, correct such record. If any such error results in the receipt from such system by any member or beneficiary of more or less than he would have been entitled to receive had the records been correct, payments shall, as far as practicable, be adjusted in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Sec. 11. 5 MRSA § 1031, sub-§ 9 is amended to read:

9. Record; report. The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish ~~biennially annually~~, for each fiscal year, a report showing the fiscal transactions of the retirement system for the ~~preceding fiscal years year~~ the amount of ~~accumulated cash and securities of the system and the last balance sheet showing the financial condition of the retirement system by means of an actuarial valuation of the assets and liabilities of the system~~ and the assets and liabilities of the retirement system at the end of the fiscal year. It shall also publish the actuary's report on the actuarial valuation of the financial condition of the system for the fiscal year.

Sec. 12. 5 MRSA § 1031, sub-§ 11 is amended to read:

11. Medical board. The board of trustees shall designate a medical board to be composed of 3 physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under this chapter ~~shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement with respect to disability retirements and shall report in writing to the board of trustees executive director its conclusions and recommendations upon all the matters referred to it.~~

Sec. 13. 5 MRSA § 1031, sub-§ 12 is repealed and the following enacted in place thereof:

12. Actuary; duties; annual valuation of funds; experience investigations; compensation values.

A. The board of trustees shall designate an actuary who, if an individual, shall be a Fellow of the Society of Actuaries. If the actuary is a firm of actuaries, it shall designate one of its members to perform the functions required of the actuary under this chapter who shall be a Fellow of the Society of Actuaries. The actuary shall be the technical advisor to the board of trustees on matters regarding the operation of the funds created by this chapter and shall perform such other duties as are required in connection therewith. He shall certify the amounts of the benefits payable under this chapter, except for benefits payable under subchapter VI.

B. The actuary shall make annual valuations of the assets and liabilities of the retirement system on the basis of such actuarial assumptions as the board of trustees shall adopt and shall furnish a written report to the board of trustees with respect to each such valuation. Each such report shall also include an analysis of the year's operations and all results shall be separated between those applicable to benefits payable by employer contributions and employee contributions, where properly determinable.

C. The actuary shall make such investigations as he deems necessary of the experience of the system as to the factors which affect the cost of the benefits provided by the retirement system, for the purpose of determining the actuarial assumptions to be recommended to the board of trustees for adoption in connection with actuarial determinations required under this chapter. Such investigations shall be made as frequently as the actuary deems expedient but at least once in each 3-year period following January 1, 1976.

D. The actuary shall determine the equivalent cash compensation value to the members of the system of the benefits provided for them by the retirement system and shall furnish such information to the Director of Personnel.

Sec. 14. 5 MRSA § 1031, sub-§§ 13 and 14 are repealed.

Sec. 15. 5 MRSA § 1032, 2nd ¶ is amended to read:

If and when any special resolve or other legislation is enacted by the Legislature granting credits toward retirement not provided for under this chapter which grants benefits which are to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this chapter but for the enactment of such law, the entire actuarial costs of such special resolve benefits shall be fully funded by act of the same Legislature which enacts any such special resolve.

Sec. 16. 5 MRSA § 1033, sub-§ 3, 1st sentence, as enacted by PL 1969, c. 415, § 2, is amended to read:

Any participating local district which is included under the retirement system shall be entitled to accept any or all of the provisions of this chapter by filing with the board of trustees a duly certified copy of the vote of the ~~county commissioners or of the city council or such corresponding~~ executive body or a record of the vote of the town voters certified by the clerk of the town meeting, setting forth in such action those provisions of this chapter which are to be accepted by the district in question, except any local participating district may elect to retain any or all of those provisions of the retirement law said district accepted at the time of the original agreement and including any changes subsequently accepted or selected by the district.

Sec. 17. 5 MRSA § 1062, sub-§ 2, ¶ C, as last amended by PL 1971, c. 17, § 11, is repealed and the following enacted in place thereof:

C. Any member in service may make contributions on his own account to the Members' Contribution Fund, which are additional to the employee contributions required under this chapter, at a rate not in excess of 10% of earnable compensation for the purpose of increasing the amount of payment of his retirement allowance under any service retirement provision of this chapter. The rules and regulations governing this right granted to members to make additional contributions shall be determined by the board of trustees. Any member in service on January 1, 1976 and ineligible to make contributions under section 1094, subsection 12, paragraph B or subsection 14 because of this Act, may make such additional contributions at a rate in excess of 10% of earnable compensation necessary to provide an increased retirement allowance equal to any benefits to which the member would have been entitled under section 1094, subsection 12, paragraph B or subsection 14 as in effect immediately prior to January 1, 1976.

Sec. 18. 5 MRSA § 1062, sub-§ 6, ¶ B, as last amended by PL 1967, c. 59, § 8, is repealed.

Sec. 19. 5 MRSA § 1062, sub-§ 7, ¶ B, as enacted by PL 1965, c. 337, § 2, is repealed.

Sec. 20. 5 MRSA § 1062, sub-§ 7, ¶ C, last 2 sentences, as enacted by PL 1965, c. 337, § 2, are repealed.

Sec. 21. 5 MRSA § 1092, sub-§ 1, as last amended by PL 1973, c. 115, is amended to read:

1. Participating local districts. The employees of any ~~county, city, town, water district, public library corporation or any other quasi-municipal corporation of the State, a regional planning commission as provided in Title 30, a public housing authority as provided in Title 30, a council of governments provided in Title 30, the civilian employees of the Maine National Guard, employees of the Maine State Employees Association, Maine State Employees Credit Union, the State Principals Association, or of Maine Municipal Association~~ local district may participate in the retirement system to the full extent of any and all benefits provided for in this chapter provided the ~~county commissioners or the city council or corresponding body of a city~~ executive body, or

for a town, or the voters of a town at a duly constituted town meeting, or the trustees of a water district, public library corporation or other quasi-municipal corporation, the representatives of a regional planning commission, the commissioners of a public housing authority, the representatives of a council of governments, the Adjutant General, or Maine State Employees Association through its board of directors, or Maine State Employees Credit Union through its board of directors, or the State Principals Association through its executive committee, or the active member municipalities of Maine Municipal Association through its executive committee approve such participation and file with the board of trustees a duly certified copy of the resolution of the county commissioners or of the city council or such corresponding body executive body approving such participation and the extent of the benefits which shall apply, or a record of the vote of the town voters certified by the clerk of the town meeting. Such county, city, town, water district, public library corporation or other quasi-municipal corporation, regional planning commission, public housing authority, council of governments, Maine State Employees Association, Maine State Employees Credit Union, State Principals Association, Maine National Guard or Maine Municipal Association local district approving the participation of its employees in the retirement system shall thereafter be known for the purposes of this chapter as "a participating local district." Such county, city, town, water district, public library corporation or other quasi-municipal corporation, regional planning commission, public housing authority, council of governments, Maine National Guard, Maine State Employees Association, or Maine State Employees Credit Union, or State Principals Association, or Maine Municipal Association local district shall designate in their approval any class of employees, otherwise provided for by local pension provisions, who may be exempted from this chapter. The date when the participation of the employees of a participating local district may begin shall be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees. This date shall be considered as the date of establishment for participating local districts as defined in section 1002.

Sec. 22. 5 MRSA § 1092, sub-§ 3, first sentence, as amended by PL 1971, c. 154, § 1, is amended to read:

Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide a retirement benefit for policemen, ~~firemen~~ fire fighters, sheriffs and full-time deputy sheriffs or any other participating local district employees, in lieu of the retirement benefits otherwise provided in this chapter for these employees, of $\frac{1}{2}$ salary average final compensation, after having completed 20 to 25 years of service which benefit shall be based on the annual rate of salary being paid such individuals at point of retirement or the gross amount earned in the immediately preceding 12 months, whichever is greater.

Sec. 23. 5 MRSA § 1092, sub-§ 3, last sentence, is repealed.

Sec. 24. 5 MRSA § 1092, sub-§ 4, first sentence, is amended to read:

Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide, in lieu of the retirement benefits provided elsewhere in this chapter, a retirement benefit on the straight life plan to be paid to the retirant during his lifetime, and $\frac{1}{2}$ of such benefit shall be paid to his designated beneficiary upon his death and shall continue during the lifetime of such beneficiary if said beneficiary is a spouse or as long as ~~she~~ he does not ~~remarry~~ become the dependent of another person.

Sec. 25. 5 MRSA § 1092, sub-§ 8, is amended to read:

8. **Benefits as if state employees.** Employees who become members under this section and on behalf of whom contributions are paid as provided in this section shall be entitled to benefits under the retirement system for which such contributions are made as though they were state employees and shall also be entitled to any additional benefits elected by the participating local districts.

Sec. 26. 5 MRSA § 1092, sub-§ 11, first ¶, is amended to read:

Any member of the retirement system whose service is terminated as an employee, either as defined in section 1001 or as an employee of a participating local district, shall, upon subsequent reemployment as such an employee but with a new employer, provided he shall not have previously withdrawn his accumulated contributions, thereupon have his membership transferred to his account with his new employer, and shall be entitled to all ~~creditable service resulting from his previous employment~~ benefits based on creditable service and earnable compensation with the previous employer and the provisions of this chapter in effect with respect to the previous employer at the date of termination of service by the member, which do not require additional contributions by the new employer. The new employer may elect to include the creditable service and earnable compensation with the previous employer with the creditable service and earnable compensation with the new employer, and shall then make such contributions, from time to time, as may be necessary to provide the benefits under the retirement system for the member as have accrued to him by reason of his previous employment and may accrue to him by reason of his new employment. All funds in the retirement system contributed by his former employer on account of his previous employment shall be transferred to the account of the new employer and shall be used to liquidate the liability incurred by reason of such previous employment.

Sec. 27. 5 MRSA § 1092, sub-§ 14 is enacted to read:

14. **Cessation of inclusion of participating local district.**

A. If, for any reason, any participating local district ceases to be an employing unit eligible for inclusion in the retirement system, the membership of its employees shall cease except to the extent of any benefits that may be provided by the funds that have been established under the retirement system for such district.

B. If the membership of the employees of a participating local district ceases under the conditions of paragraph A, the funds that have been es-

established under the retirement system for such district shall be used to provide benefits for those persons who are either members or beneficiaries at the date of such cessation.

C. The amount of the funds that have been established under the retirement system for such district at the date of such cessation shall be allocated by the board of trustees in an equitable manner to provide benefits for the persons stated in paragraph B in accordance with this chapter in effect at the date of such cessation, but based upon years of creditable service, average final compensation and accumulated contributions as of the date of such cessation, in the following order:

(1) For the benefit of members to the extent of the then value of their accumulated contributions in the Members' Contribution Fund; if any funds remain, then

(2) For the benefit of beneficiaries then receiving payment of a benefit after cessation of payments to such beneficiaries, in proportion to the then actuarial value of their respective benefits but not to exceed the amount of such values; if any funds remain, then

(3) For the benefit of members with at least 10 years of creditable service, who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions; the allocation of the funds under this subparagraph shall be on the basis of the oldest ages first method; if any funds remain, then

(4) For the benefit of members in service with the district on the date of such cessation with less than 10 years of creditable service, who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions; the allocation of the funds under this subparagraph shall be on the basis of the oldest ages first method.

D. The allocation of the funds provided for in paragraph C, as decided by the board of trustees, may be carried out through the continuance of the benefit payments or the funds may be distributed in one lump sum to the persons entitled to said benefits determined in accordance with said paragraph C. No member or former member shall lose his right to any benefits under this section solely because he later terminates employment with the participating local district prior to his service retirement date.

Sec. 28. 5 MRSA § 1094, sub-§ 9, last sentence is amended to read:

Payments made after July 1, 1957 of any such back ~~contributions~~ payments shall include interest at 2% greater than regular interest thereon for the period from July 1, 1957 to the date of payment.

Sec. 29. 5 MRSA § 1094, sub-§ 10, is amended to read:

10. Former members. Any former member who withdrew his contributions after termination of service may, upon later restoration to membership and prior to the date any retirement allowance becomes effective for him, de-

posit in the Members' Contribution Fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by him together with interest at 2% greater than regular interest thereon from the date of withdrawal to the date the deposit payment or payments are made. Upon the completion of such deposit, the member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before the completion of such deposit, the member shall be entitled to credit for that portion of the total of such previous creditable service which the total amount of deposit payments actually made bears to such single deposit if paid on the date of restoration to membership, in each instance including interest at 2% greater than regular interest from the date of payment to the date the retirement allowance becomes effective.

Sec. 30. 5 MRSA § 1094, sub-§ 11 is amended to read:

11. Federal employment service. Any employees of the federal employment service who transferred to a state department prior to the time said service was returned to state control shall be allowed prior service credit and membership credit for such time as he was with the said federal employment service, provided he makes up such contributions as may be necessary to cover membership credit, which shall include interest at 2% greater than regular interest from January 1, 1976 to the date of payment. This subsection shall not apply to any member who begins membership on or after January 1, 1976.

Sec. 31. 5 MRSA § 1094, sub-§ 12, ¶ A, first ¶, as last amended by PL 1965, c. 509, § 1, is amended to read:

A. Out-of-state service shall be allowed as additional creditable service for any member in the determination of his retirement allowance under any provisions of this chapter, provided that the member has creditable service in Maine of at least 20 years in the aggregate, provided the member, prior to the date any retirement allowance becomes effective for him, makes contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as he would have made contributions had such service been in Maine, including interest at 2% greater than regular interest from the date of his return to service to the date of payment and subject to the following:

Sec. 32. 5 MRSA § 1094, sub-§ 12, ¶ A, sub-¶ (5), as enacted by PL 1965, c. 314, is amended to read:

(5) ~~Any~~ **A** public school teacher who leaves service in Maine to teach children of United States occupational forces, located in any foreign country on a regularly established United States military base, shall be allowed credit for such service, not to exceed 2 years, provided such teacher returned to active teaching service in Maine within one year of the completion of such foreign service, and pays into the Maine State Retirement System contributions as would have been made had the service been rendered in Maine, including interest at 2% greater than regular interest from the date of his return to service to the date of payment.

Sec. 33. 5 MRSA § 1094, sub-§ 12, ¶ A, as last amended by PL 1965, c. 509, § 1, is further amended by adding a new sentence at the end to read:

This paragraph shall not apply to any member who begins membership on or after January 1, 1976.

Sec. 34. 5 MRSA § 1094, sub-§ 12, ¶ B, as last amended by PL 1965, c. 509, § 3, is amended by adding at the end the following new paragraph:

This paragraph shall not apply to any member who has not made the single payment deposit or increased his rate of contributions, as required herein, prior to January 1, 1976.

Sec. 35. 5 MRSA § 1094, sub-§ 13, 3rd sentence, as repealed and replaced by PL 1969, c. 415, § 3, is amended to read:

The member shall contribute to the retirement system for each year of military service claimed that percentage of contribution required of active members during the period of time covered by said military service applied to the earnable compensation paid such member during the first year of state employment subsequent to service in the Armed Forces, together with interest at 2% greater than regular interest from January 1, 1976 or the date of attaining 15 years of creditable service, if later, to the date of payment; however, 5% shall be the minimum rate of contribution.

Sec. 36. 5 MRSA § 1094, sub-§ 13, as last amended by PL 1969, c. 449, is amended by adding a new sentence:

This subsection shall not apply to any member who begins membership on or after January 1, 1976.

Sec. 37. 5 MRSA § 1094, sub-§ 14, as last amended by PL 1973, c. 571, § 3, is further amended by adding at the end a new paragraph to read:

This subsection shall not apply to any member who has not made the single payment deposit or increased his rate of contributions, as required herein, prior to January 1, 1976.

Sec. 38. 5 MRSA § 1094, sub-§ 15 is enacted to read:

15. Disability retirement credits. The period following his termination of service for which a beneficiary receives disability retirement allowance payments under section 1122 shall be allowed as creditable service for the purposes of determining benefits under this chapter.

Sec. 39. 5 MRSA § 1096 is amended to read:

§ 1096. Return of accumulated contributions

If the service of any member has terminated, except by death or by retirement under this chapter, he shall be paid, at any time thereafter upon proper application therefor, the amount of his accumulated contributions together with such interest thereon, not less than $\frac{3}{4}$ of accumulated regular interest, as the board of trustees shall allow, provided no interest shall be included for any period beyond the 5th anniversary of the date of such termination of ser-

vice if the member has less than 10 years of creditable service. Such payment shall not be made earlier than 60 days after the date of termination of service and an application for refund shall be void if a member returns to service within such 60-day period.

Sec. 40. 5 MRSA § 1121, sub-§ 1, ¶ B, last 2 sentences, are repealed and the following enacted in place thereof:

Notwithstanding the foregoing, the service of any member who has attained the age of 70, and who desires to remain in service, may be continued for periods of one year, if approved by the Governor and Council, for state employees, or by the executive body of the school system or participating local district which employs the member, in accordance with the regular employment practices of the school system or local district. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council.

Sec. 41. 5 MRSA § 1121, sub-§ 1, ¶ C, last sentence of first ¶ is amended to read:

The total amount of the service retirement allowance of a member retired in accordance with this paragraph shall be equal to $\frac{1}{2}$ of his ~~current annual salary~~ average final compensation.

Sec. 42. 5 MRSA § 1121, sub-§ 1, ¶ C, 2nd ¶, as last amended by PL 1971, c. 533, is further amended to read:

Upon the death of a member of the Maine State Police who is the recipient of a retirement allowance under this section, without optional modification, or is retired under ~~either the ordinary or occupational~~ disability provisions, ~~his widow~~ the surviving spouse shall become entitled to a retirement allowance which shall be equal to $\frac{1}{2}$ of the amount being paid at the time of his death and which payment shall continue for the remainder of his or her lifetime or until he or she becomes the dependent of another person or until she should remarry. Payment of the appropriate monthly amount shall be made to the ~~widow~~ surviving spouse for the account of any deceased member of the State Police who had retired without optional modification under this paragraph as of September 23, 1971, and shall not be retroactive.

Sec. 43. 5 MRSA § 1121, sub-§ 1, ¶ C, last ¶, as enacted by PL 1973, c. 606, is repealed.

Sec. 44. 5 MRSA § 1121, sub-§ 1, ¶ D, last sentence of first ¶ as last repealed and replaced by PL 1971, c. 622, § 12, is amended to read:

The total amount of the service retirement allowance of a law enforcement officer retired in accordance with this paragraph shall be equal to $\frac{1}{2}$ of his ~~current annual salary~~ average final compensation.

Sec. 45. 5 MRSA § 1121, sub-§ 1, ¶ D, last ¶, as last amended by PL 1973, c. 513, § 22, is further amended to read:

Upon the death of a law enforcement officer of the Department of Marine Resources or a law enforcement officer of the Department of Inland Fisheries and Game who is the recipient of a retirement allowance under this section, without optional modification, or is retired under either the ~~ordinary or occupational~~ disability provisions, ~~his widow~~ **the surviving spouse**, who was his spouse at the time of his retirement, shall become entitled to a retirement allowance which shall be equal to $\frac{1}{2}$ of the amount being paid at the time of his death and which payment shall continue for the remainder of ~~his or her lifetime or until she should remarry~~ **he or she becomes the dependent of another person.**

Sec. 46. 5 MRSA § 1121, sub-§ 1, ¶ E, last sentence, as last amended by PL 1973, c. 460, § 18, is further amended to read:

The total amount of the service retirement allowance of a forest ranger in the Bureau of Forestry retired in accordance with this paragraph shall be equal to $\frac{1}{2}$ of his ~~current annual salary~~ **average final compensation.**

Sec. 47. 5 MRSA § 1121, sub-§ 2, ¶ A, sub-¶ (2), as last amended by PL 1973, c. 542, § 4, is further amended to read:

(2) If he has a prior service certificate in full force and effect, $\frac{1}{50}$ of his average final compensation multiplied by the number of years, not to exceed 25, of his prior service or, if the member was formerly subject to the Revised Statutes of 1944, chapter 37, sections 212 to 241, $\frac{1}{60}$ of his average final compensation multiplied by the number of years of his teaching service rendered prior to July 1, 1942. **A participating local district may elect to include, as to all employees of the district, prior service in excess of 25 years.**

Sec. 48. 5 MRSA § 1121, sub-§ 2, ¶ H is enacted to read:

H. The service retirement allowance of a member shall be determined under the provisions of this chapter in effect on the member's date of final termination of service, or on January 1, 1976, if this date is later.

Sec. 49. 5 MRSA § 1121, sub-§ 4, ¶ B, last sentence, is repealed and the following enacted in place thereof:

Notwithstanding the foregoing, the service of any member who has attained the age of 70, and who desires to remain in service, may be continued for periods of one year, if approved by the Governor and Council, for state employees, or by the executive body of the participating local district which employs the member, in accordance with such employment practices of the local district. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council.

Sec. 50. 5 MRSA § 1121, sub-§ 4, ¶ D, as last amended by PL 1971, c. 167, § 2, is amended to read:

D. Any member who is a liquor inspector, including the chief inspector, and in any case at least 25 years of creditable service in his respective ca-

capacity, may be retired on or after the attainment of age 55 years on a service retirement allowance, but must be retired at the attainment of age 65, which will be equal to $\frac{1}{2}$ of his ~~current~~ average final compensation. ~~Notwithstanding the foregoing, the chief inspector on the request of the Governor with the approval of the Council, the board of trustees may permit the continuance of said chief inspector for periods of one year, as the result of each such request, of the service of the chief inspector who has attained the age of 65 and who desires to remain in service. In no instance shall the power to extend the service of the chief inspector be extended beyond the attained age of 70.~~ Notwithstanding the foregoing, the service of a chief inspector who has attained the age of 65, and who desires to remain in service, may be continued for periods of one year, but not beyond the attainment of age 70, if approved by the Governor and Council. Requests for extensions of service for state employees shall be filed with the appointing authority, who shall send it to the Director of Personnel for review and comment, who shall then forward it to the Governor and Council. Notwithstanding the provisions of this paragraph, any person employed as a liquor inspector on or before September 3, 1965, who has been employed continuously as such and who will not attain the 25 years of creditable service at age 65, shall be permitted to continue in his employment as a liquor inspector in order to obtain the 25 years of creditable service necessary, at which time such liquor inspector must be retired.

Sec. 51. 5 MRSA § 1121, sub-§ 7, is amended to read:

7. Spouses and children of sheriffs. If a sheriff or deputy sheriff shall die as a result of injury received in line of duty, except while engaged in the duty of serving civil process, his ~~widow~~ surviving spouse, or, if none, his minor child or children, shall receive a pension equal to $\frac{1}{2}$ of the ~~pay~~ average final compensation of such sheriff or deputy sheriff at the time of his death, but in no case shall such pension be less than \$1,000. Such pension shall be paid to the ~~widow~~ surviving spouse until he or she dies or ~~remarries~~ becomes the dependent of another person, and to a child or children until they die or reach the age of 18 years.

Sec. 52. 5 MRSA § 1121, sub-§ 8, 2nd sentence, as last amended by PL 1971, c. 154, § 2, is amended to read:

The service retirement allowance shall be equal to 66 $\frac{2}{3}$ % of his ~~current~~ average final compensation or the district may accept a retirement provision whereby any member who is a fire fighter, including the chief of a fire department, who has 20 to 25 years of service as a fire fighter shall be permitted to retire, regardless of age, upon completion of the number of years selected by said district.

Sec. 53. 5 MRSA § 1121, sub-§ 9, 2nd sentence, as last amended by PL 1971, c. 154, § 3, is amended to read:

The service retirement allowance shall be equal to 66 $\frac{2}{3}$ % of his ~~current~~ average final compensation or the district may accept a retirement provision whereby any member who is a police officer, including the chief of the police department, who has 20 to 25 years of service as a police officer shall be per-

mitted to retire, regardless of age, upon completion of the number of years selected by said district.

Sec. 54. 5 MRSA § 1122, sub-§§ 1-4, as last amended by PL 1973, c. 788, § 21, are repealed and the following enacted in place thereof:

1. Occurrence of disability. Any member who, while in service and prior to attaining age 60 or reaching mandatory retirement age, without extensions, if earlier, has become mentally or physically incapacitated to such an extent that it is impossible for him to perform the duties of his employment position, may if such incapacity can be expected to be permanent, retire on a disability retirement allowance upon written application to the executive director and approval of the application by the executive director. The incapacity of the member must be such that it shall be revealed by medical examination or tests conducted by a qualified physician, who shall be mutually agreed upon by the director and member. Any such examination or tests shall be conducted at a place mutually agreed upon and the costs thereof shall be paid by the retirement system.

2. Retirement allowance payments. Upon retirement in accordance with subsection 1, a member shall receive a retirement allowance equal to $66\frac{2}{3}\%$ of his average final compensation.

Retirement allowance payments shall commence at the date of termination of active service of the member but not more than 6 months prior to the date of receipt by the executive director of the written application by or on behalf of the member for disability retirement, unless it shall be shown that it was not reasonably possible to file such application for disability benefits within such 6-month period and that such application was made as soon as was reasonably possible.

The continuance of payment of a disability retirement allowance shall be subject to the terms of subsections 3 and 4.

3. Change to service retirement.

A. The disability retirement allowance of a beneficiary shall cease upon the attainment of his mandatory retirement age, without extensions, or prior thereto whenever the service retirement allowance of the beneficiary would equal or exceed the amount of his disability retirement allowance.

B. A service retirement allowance shall be paid to the beneficiary commencing at the date of termination of the disability retirement allowance as determined in paragraph A.

4. Continuance of disability retirement allowance. Payment of a disability retirement allowance shall continue, subject to subsection 3, as long as the incapacity of the beneficiary to perform the duties of his employment position continues, except that, after the disability has continued for 5 years, the incapacity of the beneficiary must also be such that he is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience. The executive director may require, once each

year, a beneficiary who is receiving a disability retirement allowance to undergo medical examinations or tests conducted by a qualified physician, who shall be mutually agreed upon by the director and member, for the purpose of determining the incapacity of the beneficiary. Any such examination or tests shall be conducted at a place mutually agreed upon and the costs thereof shall be paid by the retirement system. Should the beneficiary refuse to submit to any such examination or tests, his disability retirement allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights to any further benefits under this section shall cease. If it is determined on the basis of any such examination or tests that the incapacity of a beneficiary has ceased, the payment of his disability retirement allowance shall terminate.

5. Earnings. The executive director shall require each beneficiary who is receiving a disability retirement allowance to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year. If, for any such year, the total of such compensation and the disability retirement allowance of the beneficiary is greater than his average final compensation, the excess shall be deducted from the disability or service retirement allowance payments during the next calendar year, such deductions to be prorated on a monthly basis in an equitable manner prescribed by the board of trustees over the year or part thereof for which benefits are received. The beneficiary shall be responsible for reimbursing the State Retirement System for any excess payments not so deducted.

Should a beneficiary not submit such a statement within 30 days of receipt of request therefor by the executive director, his disability retirement allowance shall be discontinued until such statement is submitted, and should the statement not be submitted within one year of receipt of such request, all his rights to any further benefits shall cease.

Sec. 54-A. 5 MRSA § 1122, sub-§ 5, as amended by PL 1973, c. 122, § 3, is repealed.

Sec. 54-B. 5 MRSA § 1122, sub-§ 5-A is enacted to read:

5-A. Disability payments under other laws. The amount of any disability retirement allowance payable under this section shall be reduced by any amount received by the beneficiary for the same disability under either of or both:

A. The workmen's compensation or similar law, except amounts which may be paid or payable under Title 39, sections 56 or 56-A; or

B. The Federal Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under such Act at the date of disability retirement.

The reduction in the disability retirement allowance shall be an amount necessary to make the total of the disability retirement allowance, not including adjustments under section 1123, and the offset amounts of workmen's compensation and Social Security benefits, as limited above, equal to 80% of aver-

age final compensation. The disability retirement allowance shall not be reduced below the amount of the retirement allowance which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement.

Lump-sum settlements of benefits that would reduce the disability retirement allowance under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board of trustees, but such prorated lump-sum settlements shall not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorney's fees or physicians, nurses, hospital, medical, surgical or related fees or charges, or any amount paid or payable under Title 39, sections 56 or 56-A. The prorated lump-sum settlement amounts shall reduce the disability retirement allowance in the same manner and amount as monthly benefits under this subsection.

Any dispute as to amounts paid or payable under workmen's compensation, or as to the amount of the lump-sum settlement and its attributions, shall be determined, on petition, by a single member of the Industrial Accident Commission, as provided under Title 39. Such determinations may be appealed in the manner provided by Title 39, section 103.

Sec. 54-C. 5 MRSA § 1122, sub-§ 6 is repealed.

Sec. 54-D. 5 MRSA § 1122, sub-§ 7 is enacted to read:

7. Optional election. The provisions of this section may be elected by any beneficiary entitled to a disability retirement allowance under the provisions of section 1122 as in effect immediately prior to July 1, 1977, in lieu of the provisions applicable to the disability retirement allowance which he is receiving, upon written application to the executive director prior to January 1, 1978. If elected, the provisions of this section shall apply from the date of the beneficiary's original eligibility for disability retirement, but all increases in benefits shall only be granted from the date of election.

Sec. 55. 5 MRSA § 1124, as last amended by PL 1973, c. 122, §§ 4 and 5, is further amended to read:

§ 1124. Ordinary death benefits

1. Death before eligibility for service retirement. Should a member who is in service or former member who is a beneficiary receiving a disability retirement allowance, die at any time before ~~attaining eligibility~~ completing the age and service conditions for service retirement, one of the following payments shall be made.

A. The amount of ~~his contribution to the Members' Contribution Fund together with not less than ¾ of the accumulated regular interest, as the board of trustees shall allow~~ the member's or former member's accumulated contributions shall be paid to such person, if any, as he has nominated by written designation ~~duly witnessed and filed with the board~~ executive director prior to ~~his death~~ the death of the member or former member. The last nomination of any beneficiary revokes all previous nominations. If a member or former member dies before retirement, and is not survived by a

designated beneficiary, any payments due shall be made to the first of the following listed persons relatives, if any, alive at the his death of the member shall qualify as beneficiary in the following order of precedence with all attendant rights and privileges: The spouse of the member; the children of the member, share and share alike; and the older parent of the member; otherwise, if no such relative survives the member or former member, to the his estate of the member.

B. In lieu of accepting the payment provided in paragraph A, the first of certain designated beneficiaries, if living at the death of the member or former member, may elect to substitute the benefits described below providing the member prior to his death has met certain conditions of eligibility. Such designated beneficiary shall be a spouse, child or children of the member or former member, mother or father, mother and father, or if no designation was made, the first of the following listed persons, if any, alive at the death of the member or former member, spouse, child or children, mother or father, mother and father parents or parent of the deceased.

(1) General eligibility provision for non-service connected death. The deceased member must have had at least 18 months of creditable service within the 42 months prior to date of death, or be under 60 years of age and receiving at the time of death a disability allowance as provided in section 1122 and any lump sum due under section 1122 shall be paid into the Survivors' Benefit Fund, except that any member who has been restored to service after having been a recipient of a disability retirement allowance or a service incurred disability retirement allowance shall be exempted from the requirement that the member must have had at least 18 months of creditable service prior to date of death.

(I) Benefits. Benefits shall be as follows:

(a) A spouse alive and ~~not remarried~~ who has not become the dependent of another person at the time of the death of the member or former member, shall be paid \$100 a month, commencing the first month after such death occurs, and continuing until the date of his death or ~~remarriage~~ until he becomes the dependent of another person, whichever happens first, providing that either the deceased member or former member had 10 years of creditable service at the time of his death or that the surviving spouse is certified by the medical board, after a medical examination, to be mentally or physically incapacitated and that such incapacity is likely to be permanent. Such spouse may qualify for this benefit in addition to any payments received as provided by division (b), but shall not receive this benefit simultaneously with that provided by division (b).

(b) A spouse, alive and ~~not remarried~~ who has not become the dependent of another person at the time of the death of the member or former member who has the care of unmarried children of the deceased member or former member under 18 years of age, or unmarried children of the deceased member under 22 years of age and a full-time student, or any other progeny of the deceased who is considered to be

mentally incompetent under the general statutes pertaining thereto, or who is certified to be mentally incompetent by the medical board ~~of the Maine State Retirement System~~ or who is certified by the medical board ~~of the Maine State Retirement System~~ to be physically and permanently incapacitated, shall be paid \$100 a month, commencing the first month after such death occurs and continuing during his lifetime for such time as such children or progeny are in his care and he has not ~~remarried~~ become the dependent of another person.

(c) The unmarried child or children under 18 years, or unmarried children of the deceased member or former member under 22 years of age and a full-time student, or any other progeny of the deceased who is adjudged mentally incompetent by a probate court in the State of Maine or who is certified by the medical board ~~of the Maine State Retirement System~~ to be physically and permanently incapacitated at the time of the death of the member or former member, shall receive benefits as follows:

One child shall be paid \$100 per month.

Two children shall be paid \$150 per month, which shall be divided equally between them.

Three children or more shall be paid \$200 per month, which shall be divided equally among them.

The benefits shall commence the first month after the death of the member or former member and be payable to each child until he reaches his 18th birthday, or until he reaches his 22nd birthday if a full-time student, or prior death, whichever occurs first. In the event of the marriage or death of any such child prior to his 18th birthday, or to his 22nd birthday if a full-time student, subsequent benefits to the other children, if any, shall be payable as if he had never lived.

The board of trustees shall adopt such rules as are found necessary for a beneficiary to qualify as a full-time student.

(d) A spouse living at the time of death of the member or former member and ~~not remarried who has not become the dependent of another person~~ subsequent to the death of the member shall be paid \$100 a month, commencing the first month after the attainment of 60 years of age and continuing until the date of his death ~~or remarriage, whichever happens first~~. Such spouse may qualify for this benefit in addition to any payments received as provided by division (b) but shall not receive this benefit simultaneously with that provided by division (a) or division (b).

(e) A parent, if living at the time of the death of the member or former member, and at least 60 years of age or when that age is attained shall be paid \$100 per month. If both parents are eligible to benefits under this section, and the older parent elects benefits under this subsection, the younger parent shall receive \$75 per month if at

least 60 years of age or when that age is attained. Upon the death of either parent, the survivor shall receive \$100 per month.

Such payments to any parent shall commence the first month after the death of the member or former member occurs and continue until death or remarriage, whichever happens first. Benefits are only payable under this provision in the event no other benefits have been received in accordance with divisions (a), (b), (c) or (d).

(f) Any recipient of benefits under this section who, on or after attaining age 60, becomes the dependent of another person, shall be entitled to continuation of benefits under this section until his death.

~~(f) Any recipient of benefits under this section who has remained unmarried and who does remarry at attained age 60 or thereafter shall be entitled to continuation of such benefits for the remainder of his or her lifetime.~~

(2) Service connected death. Should a member die as the result of illness or injury received in line of duty while in the service of the State of Maine, irrespective of the number of years of creditable service, paragraph B, subparagraph (1), divisions (a), (b), (c), or (e), shall be payable if applicable. If the member died on or after March 1, 1952 as a result of illness or injury received in line of duty while in the service of the State of Maine, paragraph B, subparagraph (1), divisions (a), (b), (c), or (e) shall be payable if applicable, except that the payments shall begin on the first day of the month following September 16, 1961 and shall not be retroactive to the date of death if the death occurred before July 1, 1957. Notwithstanding anything to the contrary, benefits payable hereunder shall be in lieu of any benefits payable under section 1125, provided that the beneficiary specified in this section may elect to receive the benefits under section 1125 instead of any benefits under this section. The board of trustees shall determine upon receipt of proper proof that the illness or injury received in line of duty occurred while in actual performance of duty at some definite time or place, and was not caused by the willful negligence of the member

(3) Transfer of accumulated contributions. If benefits are paid under paragraph B, subparagraph (1) the amount of deceased member's accumulated contributions in the Members' Contribution Fund shall be transferred to the Survivors' Benefits Fund, and the amount of former member's accumulated contributions in the Retirement Allowance Fund shall be transferred to the Survivors' Benefits Fund. If benefits are paid under paragraph B, subparagraph (2) the amount of the deceased member's contributions in the Members' Contribution Fund, together with such interest thereon, not less than $\frac{3}{4}$ of accumulated regular interest, as the board of trustees shall allow shall also be paid to the specified beneficiary

(4) Death of beneficiary before payment. In the event that any beneficiary person becomes entitled to the payment of benefits under any of the provisions of this section and dies before either the refund check or

the initial survivor benefit check shall be endorsed and presented to a holder in due course then it shall be considered as if ~~the beneficiary~~ such person had predeceased the member or former member. Any beneficiary of this section shall have the right to change his choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

C. A member may specify the refund of his ~~own contribution to the Members' Contribution Fund plus allowable interest~~ accumulated contributions to a designated beneficiary or to his estate in lieu of any payment to survivors as provided in paragraph B by filing an affidavit expressing such intent with the ~~board of trustees~~ executive director.

2. Death after eligibility for retirement. Should a member, or former member who is a beneficiary receiving a disability retirement allowance, die any time after ~~attaining eligibility for completing the conditions for service retirement under any of the provisions of this chapter but before any election in accordance with section 1126~~ service retirement allowance becomes effective, the following benefits shall be payable:

A. ~~Such amounts as may be due under an election of Option 1 of section 1126; otherwise~~

B. A retirement allowance equal to the reduced retirement allowance determined in accordance with Option 2 of section 1126 on the assumption that service retirement of the member or former member had taken place on the date of his death, which will be continued during the lifetime of the first of the following listed persons, if any, alive at the death of the member or former member; designated beneficiary, wife, husband, mother, father. If the designated beneficiary is a spouse, child or children, mother or father, he may elect to receive the benefits provided under subsection 1 of this section, in lieu of such retirement allowance payments. If the monthly amount of such retirement allowance is less than \$10, any such first listed person may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum which is the actuarial equivalent at the date of death of the member or former member of such retirement allowance payments. Any such first listed person, other than a designated beneficiary, may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum equal to the accumulated contributions of the member or former member; otherwise

C. The accumulated contributions of the member or former member which will be paid to ~~the his estate of the member.~~

3. Election of designated beneficiary. Should a member die any time after ~~attaining eligibility for retirement under any of the provisions of this chapter, but before any election in accordance with section 1126~~ becomes effective, the designated beneficiary if a spouse, child or children, mother or father may elect to receive either the benefits provided under subsection 1 or those provided under subsection 2, paragraph A or B but not both, provided that the

~~member and the designated beneficiary must comply with each condition set forth in the subsection providing the benefits which are elected by the designated beneficiary~~

3. Election of benefits. Benefits payable under this section shall be in lieu of any benefits payable under section 1125 or payable as death benefits under section 1121, subsection 1, paragraphs C or D, or subsection 7, provided that the person specified to receive benefits under this section may instead elect, prior to the commencement of benefit payments, to receive benefits under either section 1125, or death benefits under section 1121, subsection 1, paragraphs C or D, or subsection 7, in place of these benefits, if the member and beneficiary comply with each condition required under such sections.

4. General salary adjustments. At any time that a general salary adjustment is made to state salaries, the same percentage increase or decrease shall be applied to the payments made under subsection 1, paragraph B. All adjustments shall become effective on the first day of the month following the effective date of the active state employees' salary adjustments.

Participating local districts may provide such adjustments in the survivor benefits provisions of subsection 1, paragraph B by application to the board of trustees and shall supply a certified copy of its action with a statement of agreement of payment of costs.

Sec. 56. 5 MRSA § 1125, sub-§ 1, as last amended by PL 1965, c. 390, § 1, is repealed.

Sec. 57. 5 MRSA § 1125, sub-§ 1-A, as last amended by PL 1973, c. 513, § 22, is further amended to read:

1-A. Members of the Retirement System. If a member of the retirement system ~~who is a member of the State Police, a law enforcement officer in the Department of Inland Fisheries and Game or a law enforcement officer in the Department of Marine Resources or a former member who is a beneficiary receiving a disability retirement allowance~~ shall die as a result of an injury received in the line of duty his beneficiary, if his ~~widow surviving spouse~~, and if there is no surviving child or children under age 18, shall receive an annual sum equal to $\frac{2}{3}$ of the ~~current annual salary average final compensation~~ of the member; or his beneficiary, if his ~~widow surviving spouse~~, if the member is survived by a ~~widow spouse~~ and a child or children under age 18, jointly, shall be entitled to an annual sum equal to the ~~current annual salary average final compensation~~ of the member; or his beneficiary, if his child or children, if the member is survived only by a child or children under 18, jointly, shall receive an annual sum equal to the ~~current annual salary average final compensation~~ of the member.

When the beneficiaries are a ~~widow surviving spouse~~ and child or children under 18, they shall be paid the annual sum equal to the ~~current annual salary average final compensation~~ only until the youngest surviving child reaches age 18, at which time the annual sum paid shall be reduced to $\frac{2}{3}$ of the ~~annual salary average final compensation~~ of the member.

When the beneficiaries are a child or children under age 18, he or they shall be paid the annual sum equal to the ~~current annual salary~~ **average final compensation** only until the youngest surviving child reaches age 18, at which time all payments shall cease.

Sec. 58. 5 MRSA § 1125, sub-§ 3, is amended to read:

3. **Termination of payment.** Each annual sum provided for in subsections 1 and 2 shall be paid to the ~~widow~~ **surviving spouse** until ~~he or she~~ dies or ~~remarries~~ **becomes the dependent of another person** and to a child or children until they die or reach the age of 18 years. If the ~~widow~~ **spouse** dies without ~~remarrying~~ **becoming the dependent of another person** and leaves a child or children, the payment shall continue until such child or children die or reach the age of 18 years.

Sec. 59. 5 MRSA § 1125, sub-§ 4, is amended to read:

4. **Benefits in lieu of section 1124.** The benefits provided under this section shall be in lieu of any benefits otherwise payable under section 1124 or any death benefits otherwise payable under section 1121, subsection 1, paragraphs C or D, or subsection 7.

Sec. 60. 5 MRSA § 1126, 1st ¶, is repealed and the following enacted in place thereof:

1. **Normal method of payment.** All retirement allowances shall be payable for life in equal monthly installments, including any fraction of a month up to the date of death, unless an alternative method of payment under one of the options of subsection 2 has been elected.

2. **Optional methods of payment.** A member or a former member who is a beneficiary receiving a disability retirement allowance shall have the right to elect to have his service retirement allowance payable under any one of the options of this subsection in lieu of payment under subsection 1. Any option may be elected at any time prior to the commencement of payment of a service retirement allowance. The member shall make such an election by written request to the executive director and such an election shall be subject to his approval. Such an election may be revoked by the member by written notice to the executive director at any time prior to commencement or payment of the service retirement allowance.

Sec. 61. 5 MRSA § 1126, 2nd, 3rd, 4th and 5th ¶'s, are amended to read:

Option 1. A reduced retirement allowance payable during his life, with the provision that at his death the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments, actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions, shall be paid in a lump sum to such person, if any, as he has nominated by written designation duly acknowledged and filed with the ~~board of trustees~~ **executive director**, otherwise to his estate. No contributions deducted from the compensation of a teacher prior to July 1, 1947 or required of a teacher for service credit prior thereto shall be included in such accumulated contributions; or

Option 2. A reduced retirement allowance payable during his life, with the provision that it shall ~~continue~~ be continued in the same amount after his death for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the ~~board of trustees~~ executive director at the time of retirement should such beneficiary survive him; or

Option 3. A reduced retirement allowance payable during his life, with the provision that it shall continue after his death at $\frac{1}{2}$ of the ~~rate~~ allowance paid to him and be paid for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the ~~board of trustees~~ executive director at the time of retirement should such beneficiary survive him; or

Option 4. A reduced retirement allowance payable during his life with some other benefit payable after his death, provided the total value of the allowance during his life and of the succeeding benefit shall be computed to be of equivalent actuarial value to the allowance which he would receive without optional modifications, and provided the method used to determine the benefit shall be approved by the board of trustees.

Sec. 62. 5 MRSA § 1128, last ¶, as last amended by PL 1973, c. 122, § 6, is repealed and the following enacted in place thereof:

The service retirement allowance of a member who retires under sections 1092 or 1121, within 12 months of the effective date of a retirement allowance adjustment, shall not be less than the service retirement allowance, including such retirement allowance adjustment, that would have been payable if the member had retired on the day immediately preceding the date of such adjustment. This provision shall apply only if the member is eligible under sections 1092 or 1121 to retire on the day immediately preceding the effective date of such retirement adjustment allowance.

Sec. 63. 5 MRSA § 1153, first ¶, as last amended by PL 1967, c. 411, § 4, is further amended to read:

§ 1153. Participating local districts

The employees of any ~~county, city, town, water district, public library corporation or any other quasi-municipal corporation of the State, the civilian employees of the Maine National Guard or of Maine Municipal Association~~ local district may participate in this group life insurance program to the full extent of any and all benefits provided for in this chapter, provided the ~~county commissioners, or the city council or corresponding body of a city executive body or, for a town, the voters of a town at a duly constituted town meeting, or the trustees of water districts or public library corporations or other quasi-municipal corporation, the Adjutant General or the active member municipalities of Maine Municipal Association through its executive committee~~ approve such participation and file with the board of trustees a duly certified copy of the resolution of the ~~county commissioners or of the city council or such corresponding body executive body~~ or a record of the vote of the town voters certified by the clerk of the town meeting approving such participation and the extent of the benefits which shall apply. Such ~~county, city, town,~~

~~water district, public library corporation or other quasi-municipal corporation, Maine National Guard or Maine Municipal Association local district~~ approving the participation of its employees in this group life insurance program shall thereafter be known for the purposes of this chapter as a "participating local district." Such ~~county, city, town, water districts or public library corporations or other quasi-municipal corporations, Maine National Guard or Maine Municipal Association local district~~ shall designate in their approval any class of employees who may be exempted from this chapter. Seventy-five percent of the eligible employees of each participating district shall be the minimum number permissible as a coverage group. The date when the participation of the employees of a participating local district may begin shall be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees.

Sec. 64. 5 MRSA § 1181 is amended by adding a new paragraph at the beginning to read:

Any person aggrieved by any decision or ruling of the executive director shall have the right to have such decision or ruling redetermined by the board of trustees, upon written application within 30 days after written notice of such decision or ruling. The board of trustees may investigate and consider all issues of fact or law, including the reasons for the decision or ruling of the executive director, in any such reconsideration. The board of trustees shall complete such redetermination within 90 days of receiving the written application.

Sec. 65. 5 MRSA § 1181, 2nd sentence, is repealed.

Sec. 66. Application and effective dates. Section 1 shall apply to all retirement allowances that are first payable on or after July 1, 1977.

Sections 22, 52 and 53 shall apply to all retirement allowances that are first payable on or after July 1, 1977; except that any part of a retirement allowance based on creditable service and earnable compensation paid prior to July 1, 1977 that would be higher if determined, on a pro rata basis, under the provisions of chapter 101 in effect immediately prior to July 1, 1977, shall be so determined.

Sections 41, 44, 46 and 50 shall apply to all retirement allowances that are first payable on or after January 1, 1976; except that any part of a retirement allowance based on creditable service and earnable compensation paid prior to January 1, 1976 that would be higher if determined, on a pro rata basis, under the provisions of chapter 101 in effect immediately prior to January 1, 1976, shall be so determined.

Section 26 shall apply to all reemployments with a new employer occurring on or after January 1, 1976.

The changes in interest rates of sections 28 to 32 and 35 shall not be applied to any member who has begun to make periodic deposits or increased his rate of contributions for credit prior to January 1, 1976.

Sections 42, 43 and 45 shall apply to all deaths occurring on or after January 1, 1976.

Section 47 shall apply to retirements occurring on or after January 1, 1976, or prior thereto, as elected by a participating local district.

Section 48 shall apply to all retirement allowances that are first payable on or after January 1, 1976.

Sections 54, 54-C and 54-D shall apply to all disability retirement allowances for which written application is received on or after July 1, 1977. Applications for disability retirement allowances prior to such date shall be determined under the provisions of Title 5, section 1122, subsections 1 to 4 and 6 as in effect immediately prior to July 1, 1977.

Sections 54-A and 54-B shall apply to all disability retirement allowance payments due on or after July 1, 1976. All such payments prior to such date shall be determined under the provisions of Title 5, section 1122, subsection 5 as in effect immediately prior to July 1, 1976.

Section 55 shall apply to all deaths occurring on or after July 1, 1976, except that the benefits under subsection 2 of section 1124 may be determined according to an election of option 4 of section 1126, if an election of option 4 was made prior to July 1, 1976. All deaths occurring prior to such date shall be determined under the provisions of chapter 101 in effect immediately prior to July 1, 1976.

Sections 56 and 57 shall apply to all deaths on or after July 1, 1976. All deaths occurring prior to such date shall be determined under the provisions of chapter 101 in effect immediately prior to July 1, 1976.

Sections 1, 22, 24, 25, 27, 39, 40, 48, 49, 51, 52 and 53 shall apply to all participating local districts, whether or not the district elects such sections as amended.

The effective date of this Act, except for sections 1, 22, 52, 53, 54, 55, 56 and 57, shall be January 1, 1976.

Sec. 67. Appropriation. There is appropriated from the General Fund to the State Retirement System the sum of \$161,360 to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
STATE RETIREMENT SYSTEM		
All Other	—	\$161,360

Sec. 68. Allocation of General Highway Fund. There is allocated from the receipts of the General Highway Fund for the next 2 fiscal years, from July 1, 1975 to June 30, 1976 and from July 1, 1976 to June 30, 1977, to the State Retirement System the sum of \$24,767 to carry out the purposes of this Act. Such allocation shall be expended as follows:

	1975-76	1976-77
STATE RETIREMENT SYSTEM	—	\$24,767

Sec. 69. Utilization of other funds. Payments required by this Act for employees in departments supported by the General Highway Fund shall be paid as provided in section 68 of this Act. Payments required by this Act for employees in departments supported by Special Revenue Funds or other funds shall not be paid from the moneys provided in sections 67 and 68 of this Act, but shall be paid from funds available to such departments from other sources.

FISCAL NOTE

This Act will cause the following increases in contributions by the State to the State Retirement System during the 2nd fiscal year of the biennium, July 1, 1976 to June 30, 1977:

General Fund	\$161,360
Highway Fund	24,767
Special Revenue Accounts	21,230

This increase in contributions is based on an estimated 1976-77 total payroll of \$296,223,000 which is broken down as follows:

General Fund Salary base for 1976-77	\$230,515,000
State Employees' Salaries	55,015,000
Teachers' salaries	175,500,000
Highway Fund Salaries for 1976-77	35,380,000
Special Revenue Account	
Salaries for 1976-77	30,328,000

The increase in contributions is also based on the following "percentage-of-salary" increase in state contributions estimated for each section of this Act:

Section 54, so much as enacts the new section 1122, subsection 6 (effective from July 1, 1976.)	.02% of total payroll for fiscal year.
Sections 55, 56, 57 and 58 (effective July 1, 1976.)	.05% of total payroll for fiscal year.
(Section 54, so much as enacts the new section 1122, subsections 1 to 5 and 7: Effective July 1, 1977, and thus does not apply to FY 1976-77 payroll.)	.42% of total payroll.)

The other amendments to the State Retirement System in this Act do not have any foreseeable impact on state contributions. However, the system's experience in the future could require greater or lesser contributions by the State at some future date.

STATEMENT OF FACT

This bill implements the recommendations for reform and improvement of the State Retirement System resulting from a professional study of the system

under the supervision of the Committee on Veterans and Retirement of the 106th Legislature. The provisions in this bill are intended to fulfill several purposes: the protection of employees' present rights and benefits, the removal of abuses, the equalization of benefits and eligibility requirements and the removal of unwarranted special provisions, the removal of anachronistic or unused provisions, the increase of participating local districts' flexibility, the clarification of some provisions, and administrative changes to increase the efficiency and accountability of the system.

Present and potential abuses in the law occur in the computation and methods of paying retirement benefits, and in the payment of past membership contributions and withdrawal of accumulated contributions. To correct these abuses "average final compensation" is redefined to limit unused leave payments, the election of the "option 4" method of benefits payment is removed in some instances, interest at greater than "regular interest" is required for delayed payment for past membership, a 60-day delay after termination is required before accumulated contributions are refunded, and the amount of benefits are determined at date of termination rather than the date the benefits became effective.

To insure greater equity in eligibility requirements for different benefits and greater equalization in the amount of benefits, consistent with the purposes and aims of the system, certain special privileges and provisions that benefit limited groups are either removed or expanded to include all those similarly situated. The major change is the integration of disability retirement benefits into the service retirement benefit provisions and death benefit provisions, and the inclusion of all members in the accidental death benefits coverage. The distinction between ordinary and occupational disability is removed and replaced by uniform disability benefits for all causes of disability, equal to the amount presently provided for occupational disability. Disability benefits are only to be continued until the normal service retirement date, at which point service retirement benefits will begin, with the period of disability allowed as creditable service for retirement and compensation based on the salary received before disability benefits were begun. The eligibility for accidental death benefits and ordinary death benefits is expanded: the time-in-service limitations of ordinary death benefits are removed and accidental death benefits for service connected deaths are broadened and unified for all members by expanding application of the special provisions for law enforcement officers to all members. Those receiving disability benefits are also eligible for such death benefits. The inequities of sexually discriminatory eligibility standards are also removed from these statutes, and the remarriage provisions changed to dependency limitations.

Other provisions are also amended to remove archaic limitations and create an equitable system of benefits. As a base for benefit determination throughout the system, "average final compensation" replaces various other bases that have developed over the years, such as "annual salary" "current final compensation", etc., which create inequitable benefits for certain groups. The provisions that allow members to purchase additional "service credits" for specified types of past employment or military service are also removed, and replaced by a provision allowing all members to make contributions to

increase their retirement allowance. The special provision that allows teachers to retire after a cost of living increase in benefits and still receive that increase, a provision based on the teachers' contract year, is also replaced by a provision that effectively applies the same privilege to all members, without the requirement to file a notice of intent. The last substantial change required in the system by this general purpose is the removal of the individual listing of organizations eligible to become participating local districts. Instead of the individual listing, a general definition is used that encompasses all those presently included as well as organizations that are similar or identical in purpose and constituency to those listed.

The removal of anachronistic or currently unused provisions is the purpose in amending the sections relating to the amount of interest to be included in returned contributions, the continuation in service of a member past the maximum retirement age, and employee contributions to the Retirement Allowance Adjustment Fund and the Survivor's Benefit Fund. The interest paid on employee contributions is the employee's money, and as such, should be entirely returned to the employee. Further the discretionary percentage return of interest gives the board of trustees the power to arbitrarily penalize individual employees, a power that is inconsistent with the principles of the retirement system. Thus, all interest paid on employee contributions is required to be returned to the terminating employee. The power of the board of trustees to authorize the continued employment of an employee beyond the mandatory retirement age is also unnecessary, as such extension represents no detrimental effect on the system that the board must guard against. Thus, such approval by the board is removed, allowing the power to remain solely in the Governor and Council or executive body of the participating local district. The contributions by employees to the Retirement Allowance Adjustment Fund and the Survivor's Benefit Fund have presently been reduced to zero by the board. The amending of this statute removes the power of the board to change employee contributions to these funds, and places such power solely in the Legislature.

To protect the rights and benefits of employees, these amendments have limited retroactivity where they might reduce such benefits or remove or modify rights. Where the amendments correct abuses they are fully retroactive, and where they increase or extend benefits, they are usually only prospective. Future amendments all also limited in their possible retroactive effect to insure protection of members' accrued benefits. Protection of rights and benefits is also provided for members of participating local districts by providing priorities and distribution of funds for the funds of a local district that withdraws from the system. Because some of the reforms accomplished by this Act will have profound effects in some participating local districts, and because the benefits effected have been part of some collective bargaining agreements, delayed effective dates are applied to allow readjustment of the agreements.

Increasing the flexibility and responsiveness of the participating local districts without adding burdens to the system as a whole is the purpose in amending the provisions relating to transfers of employment and to the benefits that can be elected by participating local districts. An employee who ter-

minates membership with one employer and then becomes re-employed and rejoins, is guaranteed the accrued benefits from his previous employment. But his new employer also has the elective option to include the members prior service in his present service and thus provide higher benefits. This change from mandatory inclusion of prior service to elective inclusion gives greater flexibility to the new employer in hiring former members. To further increase the flexibility of participating local districts, they are given the power to elect to include prior service beyond the 25 year limitation that applies to the state. All such additional benefits elected by a district are granted to all member-employees of that district.

To increase the efficiency and accountability of the system, the following changes are made in the administration: (1) the membership of the board of trustees is changed to allow nomination of one of the Governor's appointees by the Maine Retired Teacher's Association, (2) the terms of office of board members are staggered, (3) administrative responsibility for regular operations is placed clearly in the executive director, (4) the need for qualified personnel to administer disability benefits is recognized and provided for, and (5) the reports of the system are required annually and include the scope of actuarial valuations of the operations of the system. Further, the board of trustees is required to report in detail to the Legislature on any future proposed amendment to the system, with reports also required from the Department of Personnel and the system's actuary. And, to protect the funds of the system, benefits provided by special resolve that are not provided for by regular contribution must have accompanying separate funding.

In addition to these changes in the state retirement system, changes were also made to clarify certain provisions to conform to the changes already noted.