

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 754

H.P. 556

House of Representatives, March 14, 1989

Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative JALBERT of Lisbon.  
Cosponsored by Representative HICKEY of Augusta.

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STATE OF MAINE

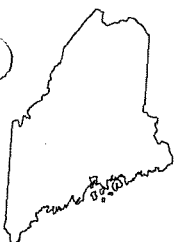
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

---

**An Act to Amend Certain Portions of the Maine Legislative Retirement System and the Maine Judicial Retirement System to Make Them Comparable to Similar Portions of the Maine State Retirement System Statutes.**

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

3 **Sec. 1. 3 MRSA §701, sub-§§6, 7, 10, 13 and 14,** as enacted by PL  
1985, c. 507, §1, are repealed.

5 **Sec. 2. 3 MRSA §701, sub-§15,** as enacted by PL 1985, c. 507,  
7 §1, is amended to read:

9 **15. Regular interest.** "Regular interest" means interest at  
11 the rate which the Board of Trustees of the Maine State  
Retirement System sets from time to time, in accordance with  
13 Title 5, section ~~10617~~-~~subsection-2~~ 17156.

15 **Sec. 3. 3 MRSA §701, sub-§17,** as enacted by PL 1985, c. 507,  
§1, is repealed.

17 **Sec. 4. 3 MRSA §731, sub-§1,** as enacted by PL 1985, c. 507,  
§1, is amended to read:

19 **1. Duties.** The board shall have the same duties with  
21 respect to the Maine Legislative Retirement System as the Board  
of Trustees of the Maine State Retirement System has with the  
23 Maine State Retirement System, including, but not limited to,  
those powers and duties enumerated in Title 5, chapter ~~101~~ 421,  
25 subchapters ~~II and III~~, IV and V.

27 **Sec. 5. 3 MRSA §735,** as enacted by PL 1985, c. 507, §1, is  
amended to read:

29 **§735. Administrative procedures**

31 Appeal from the executive director's decision shall be the  
33 same as provided for the Maine State Retirement System in Title  
5, section ~~1181~~ 17451.

35 **Sec. 6. 3 MRSA §751,** as amended by PL 1987, c. 402, Pt. A,  
37 §7, is further amended to read:

39 **§751. Control of funds**

41 The board of trustees shall be the trustee of the funds  
43 created by this chapter and shall administer those funds in the  
same manner as is provided for the administration of the Maine  
State Retirement System funds in accordance with Title 5, chapter  
45 ~~101~~ 421, ~~subchapter III~~ subchapters III and IV. The board may  
establish separate funds or accounts within a fund, as necessary.

47 **Sec. 7. 3 MRSA §801, sub-§1,** as enacted by PL 1985, c. 507,  
49 §1, is amended to read:

51 **1. Membership mandatory.** Every Legislator serving in the  
Legislature on or after December 3, 1986, shall be a member of

1 the Maine Legislative Retirement System, except that any  
2 Legislator who is a member of the Maine State Retirement System  
3 on December 2, 1986, may continue to be a member of that system  
4 instead of becoming a member of the Maine Legislative Retirement  
5 System, and any Legislator who is a public school teacher on  
6 leave of absence shall continue to be a member of the Maine State  
7 Retirement System and have contributions deducted from his the  
8 member's legislative salary as provided by Title 5, section 1094,  
9 ~~subsection--3~~ 17701. A Legislator who is the recipient of a  
10 retirement allowance from the Maine State Retirement System shall  
11 become a member of the Maine Legislative Retirement System, but  
12 no creditable service granted under the Maine State Retirement  
13 System shall be transferred to the Maine Legislative Retirement  
14 System. A member shall cease to be a member when he the member  
15 withdraws his the member's contributions, becomes a beneficiary  
16 as a result of his the member's own retirement or dies.

17  
18 **Sec. 8. 3 MRSA §851, first ¶,** as enacted by PL 1985, c. 507, §1,  
19 is amended to read:

20 Upon written application to the board setting forth the date  
21 upon which he the member chooses to ~~retire~~ terminate employment,  
22 any member may retire on a service retirement allowance upon  
23 meeting one of the following.

24  
25 **Sec. 9. 3 MRSA §853,** as enacted by PL 1985, c. 507, §1, is  
26 amended to read:

27  
28 **§853. Disability retirement**

29  
30 Any member who becomes disabled while in service may receive  
31 a disability retirement allowance on the same basis as provided  
32 for members of the Maine State Retirement System by Title 5,  
33 ~~section--1122~~ chapter 423, subchapter V, article 3.

34  
35 **Sec. 10. 3 MRSA §855,** as enacted by PL 1985, c. 507, §1, is  
36 amended to read:

37  
38 **§855. Ordinary death benefits**

39  
40 If a member who is in service or a former member who is a  
41 recipient of a disability retirement allowance dies, his the  
42 member's beneficiary, or relative if he--has no designated  
43 beneficiary, shall be entitled to benefits on the same basis as  
44 provided for beneficiaries of state employees who are members of  
45 the Maine State Retirement System by Title 5, ~~section--1124~~  
46 chapter 423, subchapter V, article 4.

47  
48 **Sec. 11. 3 MRSA §856,** as enacted by PL 1985, c. 507, §1, is  
49 amended to read:

50  
51 **§856. Accidental death benefits**

1  
3 If a member or a former member who is receiving a disability  
5 retirement allowance dies as a result of an injury received in  
7 the line of duty, benefits shall be paid on the same basis as  
provided for members of the Maine State Retirement System by  
Title 5, ~~section 1125~~ chapter 423, subchapter V, article 5.

9 **Sec. 12. 3 MRSA §857**, as enacted by PL 1985, c. 507, §1, is  
amended to read:

11 **§857. Payment of service retirement allowance**

13 All service retirement allowances shall be paid on the same  
15 basis as provided for members of the Maine State Retirement  
System by Title 5, section ~~1126~~ 17804.

17 **Sec. 13. 3 MRSA §858**, as enacted by PL 1985, c. 507, §1, is  
19 amended to read:

21 **§858. Cost-of-living and other adjustments**

23 Retirement allowances under this chapter shall be adjusted  
25 on the same basis as provided for members of the Maine State  
Retirement System by Title 5, section ~~1128~~ 17806.

27 **Sec. 14. 3 MRSA §859** is enacted to read:

29 **§859. Remarriage after retirement**

31 If the recipient of a reduced service retirement allowance  
33 under section 857 remarries after the recipient's spouse dies,  
35 the recipient may elect to have the reduced retirement benefit  
37 paid under the same option to the new spouse after the  
recipient's death instead of continuing the original reduced  
retirement allowance to the recipient during the recipient's  
lifetime, under the same basis as provided for members of the  
Maine State Retirement System by Title 5, section 17805.

39 **Sec. 15. 4 MRSA §1201, sub-§3**, as amended by PL 1983, c. 863,  
41 Pt. B, §§8 and 45, is repealed and the following enacted in its  
place:

43 **3. Average final compensation.** "Average final  
45 compensation" means:

47 A. The average annual rate of earnable compensation of a  
49 member during the 3 years of creditable serve as a judge,  
not necessarily consecutive, in which the member's annual  
rate of earnable compensation is highest; or

1           B. The average annualized rate of earnable compensation of  
3           a member during the entire period of creditable service if  
              that period is less than 3 years.

5           **Sec. 16.** 4 MRSA §1201, sub-§6, as enacted by PL 1983, c. 853,  
7           Pt. C, §§15 and 18, is repealed.

9           **Sec. 17.** 4 MRSA §1201, sub-6-A is enacted to read:

11           6-A. Dependent child. "Dependent child" means:

13           A. Any unmarried, natural or legally adopted, born or  
              unborn member's progeny, who is:

15                     (1) Under 18 years of age; or

17                     (2) Under 22 years of age and a full-time student; or

19           B. Regardless of age or marital status, any other progeny  
21           certified by the medical board to be permanently mentally  
23           incompetent or permanently physically incapacitated and  
              determined by the executive director to be unable to engage  
              in any substantially gainful employment.

25           **Sec. 18.** 4 MRSA §1201, sub-§§10, 15 and 16, as enacted by PL  
27           1983, c. 853, Pt. C, §§15 and 18, are repealed.

29           **Sec. 19.** 4 MRSA §1201, sub-§19, as enacted by PL 1983, c. 853,  
              Pt. C, §§15 and 18, is amended to read:

31           19. Spouse. "Spouse" means the person currently legally  
33           ~~the member is~~ married to or, ~~if not married, the person the a~~  
              ~~member has most recently divorced, provided that person has not~~  
              ~~remarried.~~

35           **Sec. 20.** 4 MRSA §1201, sub-§20 is enacted to read:

37           20. Surviving spouse. "Surviving spouse" means the spouse  
39           alive at the time of the death of the member or former member.

41           **Sec. 21.** 4 MRSA §1231, sub-§1, as enacted by PL 1983, c. 853,  
43           Pt. C, §§15 and 18, is amended to read:

45           1. Duties. The board shall have the same duties with  
47           respect to the Maine Judicial Retirement System as it does with  
49           the board of the Maine State Retirement System has with respect  
              to the Maine State Retirement System, including, but not limited  
              to, those powers and duties enumerated in Title 5, chapter 101  
              421, subchapters II and III, IV and V.

51           **Sec. 22.** 4 MRSA §1235, as enacted by PL 1983, c. 853, Pt. C,  
              §§15 and 18, is amended to read:

1           **§1235. Administrative procedures**

3  
5           Appeal from the executive director's decision shall be the  
7 same as provided for the Maine State Retirement System in Title  
9 5, section ~~1181~~ 17451.

11           **Sec. 23. 4 MRSA §1251**, as enacted by PL 1983, c. 853, Pt. C,  
13 §§15 and 18, is amended to read:

15           **§1251. Control of funds**

17           The board of trustees shall be the trustee of the funds  
19 created by this chapter and shall administer those funds in the  
21 same manner as is provided for the administration of the Maine  
23 State Retirement System funds in accordance with Title 5, chapter  
25 ~~101 421~~, subchapter subchapters III and IV. The board may  
27 establish separate funds or accounts within a fund, as necessary.

29           **Sec. 24. 4 MRSA §1304**, as amended by PL 1983, c. 863, Pt. B,  
31 §§21 and 45, is further amended to read:

33           **§1304. Employees' contributions**

35           Each member in service, ~~prior to attaining age 71~~, shall  
37 contribute at a rate of 6.5% of earnable compensation.

39           **Sec. 25. 4 MRSA §1305, sub-§1, ¶B**, as enacted by PL 1983, c.  
41 853, Pt. C, §§15 and 18, is amended to read:

43           B. Payment of accumulated contributions shall not be made  
45 earlier than ~~45 days after the date of termination of~~  
47 service 22 days nor more than 37 days after receipt of the  
49 application and the last payroll upon which the name of the  
51 member appears, whichever occurs later.

**Sec. 26. 4 MRSA §1352, sub-§6**, as enacted by PL 1983, c. 863,  
Pt. B, §§25 and 45, is repealed.

**Sec. 27. 4 MRSA §1353, sub-§3**, as amended by PL 1983, c. 863,  
Pt. B, §§26 and 45, is further amended to read:

          3. **Commencement.** Disability retirement allowance payments  
shall commence at on the first day of the month following the  
date of termination of active service of the member. Termination  
of active service shall create a vacancy on the court.

**Sec. 28. 4 MRSA §1355**, as amended by PL 1983, c. 863, Pt. B,  
§§28 to 30 and 45, is repealed and the following enacted in its  
place:

1       **§1355. Ordinary death benefits**

3           If a member who is in service or a former member who is a  
5       recipient of a disability retirement allowance dies, the member's  
7       beneficiary, or relative if the member has no designated  
9       beneficiary, shall be entitled to benefits on the same basis as  
      provided for beneficiaries of state employees who are members of  
      the Maine State Retirement System by Title 5, chapter 423,  
      subchapter V, article 3.

11          **Sec. 29. 4 MRSA §1355-A, sub-§1,** as amended by PL 1983, c.  
13       863, Pt. B, §§31 and 45, is further amended to read:

15           1. **Benefit.** Notwithstanding the provisions of section  
17       1355, any eligible surviving spouse and dependent child or  
19       children of a judge who was in service prior to December 1, 1984,  
21       shall, upon the death of that judge, be entitled to a minimum  
23       benefit of 1/2 the retirement benefit of the judge, determined in  
      accordance with section 1352, on the assumption that retirement  
      of the judge had taken place on the date of his death. If more  
      than one child is eligible for this benefit, it shall be divided  
      equally among them. This benefit shall continue as long as the  
      spouse or child or children remain eligible.

25          **Sec. 30. 4 MRSA §1355-A, sub-§2, ¶B,** as enacted by PL 1983, c.  
27       853, Pt. C, §§15 and 18, is amended to read:

29           B. The dependent child or children are eligible ~~if~~ until  
31       they no longer meet the definition of "dependent child"  
33       under section 1201, subsection 6-A.

35           ~~(1)---They are under 18 years of age.---Eligibility~~  
37       ~~ceases upon attainment of age 18; and-~~

39           ~~(2)---There is no surviving spouse, or the surviving~~  
41       ~~spouse becomes the dependent of another person, or if~~  
43       ~~the surviving spouse dies.~~

45          **Sec. 31. 4 MRSA §1356,** as amended by PL 1983, c. 863, Pt. B,  
47       §§33, 34 and 45, is repealed and the following enacted in its  
49       place:

51       **§1356. Accidental death benefits**

53           If a member or a former member who is receiving a disability  
      retirement allowance dies as a result of an injury received in  
      the line of duty, benefits shall be paid on the same basis as  
      provided for members of the Maine State Retirement System by  
      Title 5, chapter 423, subchapter V, article 5.

55          **Sec. 32. 4 MRSA §1357, sub-§1,** as amended by PL 1985, c. 475,  
57       §§1 and 4, is further amended to read:



1           1. Normal method of payment. Payment of all regular  
2 retirement allowances shall begin on the first day of the month  
3 following the month in which the member becomes eligible to  
4 receive payment of regular retirement allowance under section  
5 1351 or 1353, subsection 7. A full month's allowance shall be  
6 paid to the beneficiary or estate of the recipient for the month  
7 in which the member dies. All regular retirement allowances  
8 shall be paid for life in equal monthly installments, ~~adjusted in~~  
9 ~~the month which the death occurs to reflect the date of death,~~  
10 unless an alternative method of payment under one of the options  
11 of subsection 2 has been elected.

12           Upon the death of a former member who was in service as a judge  
13 prior to December 1, 1984, and who is 50 years of age or older on  
14 that date and who is the recipient of a retirement allowance  
15 under the normal method of payment, the surviving spouse who is  
16 the named beneficiary at the date of retirement shall become  
17 entitled to 1/2 of the amount being paid at the time of his the  
18 member's death which payment shall continue for the remainder of  
19 his the spouse's lifetime.

20           Upon the death of a former member who was in service as a judge  
21 prior to December 1, 1984, and who is 50 years of age or older on  
22 that date and who becomes the recipient of a disability  
23 retirement allowance, his the surviving spouse who is the named  
24 beneficiary shall become entitled to 1/2 the amount that he the  
25 member would have been entitled to as a service retirement  
26 allowance under the normal method of payment as of the date of  
27 his the member's death.

28           **Sec. 33. 4 MRSA §1360 is enacted to read:**

29           **§1360. Remarriage after retirement**

30           If the recipient of a reduced regular retirement allowance  
31 under section 1357, subsection 2, paragraph B, C or D remarries  
32 after the recipient's spouse dies, the following provisions apply.

33           1. Election of benefit for new spouse. The recipient may  
34 elect to have the reduced retirement benefit paid under the same  
35 option to the new spouse after the recipient's death instead of  
36 continuing the original reduced retirement allowance to the  
37 recipient during the recipient's lifetime, under the following  
38 conditions:

39           A. The original spouse must have been the sole beneficiary  
40 of the reduced retirement allowance under section 1357,  
41 subsection 2, paragraph B, C or D; and

42           B. The recipient must have been married to the new spouse  
43 for at least 6 months.

44           2. Time and manner of election. The recipient may make the  
45 election at any time after the death of the original spouse and  
46 remarriage to the new spouse by:

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- A. Sending a written request to the executive director; and
- B. Submitting evidence of the death of the former spouse and date of marriage to the new spouse.

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement allowance the recipient has been receiving.

4. Effective date of coverage of new spouse. The effective date of the designation of the new spouse as the recipient's new beneficiary shall be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement allowance shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

**STATEMENT OF FACT**

When the Maine Judicial Retirement System, or MJRS, laws were enacted in 1983 and when the Maine Legislative Retirement System, or MLRS, laws were enacted in 1986, it appeared to be the intent of the proposers of the bill to have retirement systems for judges, justices and Legislators with benefits comparable to the benefits provided for state employees in the Maine State Retirement System, or MSRS. There were a few differences designed to preserve preexisting rights to some benefits for those who were judges or justices before the enactment of the legislation. The principal purpose of this bill is to incorporate into the MJRS and MLRS changes that have been made to the MSRS since the enactment of the MJRS and the MLRS.

The most notable change to the MLRS is the addition of the Maine Revised Statutes, Title 3, section 859, by section 14 of the bill which allows a retiree who remarries after the death of a spouse to name a new spouse as a beneficiary if an original beneficiary was the retiree's deceased spouse.

The 2 most notable changes to the MJRS relate to survivor's benefits and change of beneficiary after the death of a spouse and remarriage of the retiree.

Section 28 of this bill amends the MJRS laws to provide that beneficiaries of deceased members of the MJRS shall be entitled to the same benefits as beneficiaries of deceased members of the MSRS. The MSRS survivor's benefits laws have been recently amended to provide an increase in benefits over the next several

1 years, the benefits for surviving spouses will be doubled and the  
benefits for dependent children will be increased to \$250 per  
3 child. Surviving spouses covered through the MJRS presently  
receive \$150 per month and dependent children presently receive:  
5 one child, \$150; 2 children, \$225; and 3 or more children \$300.

7 Section 33 of the bill makes the same change to the MJRS as  
section 14 makes to the MLRS with relation to a retiree who  
9 remarries after the death of a spouse and wishes to change  
beneficiary designation to a new spouse if the original  
11 beneficiary was the retiree's deceased spouse.

13 Sections 15, 24 and 25 amend portions of the MJRS law which  
limit the accrual of service credits to time before the member  
15 reaches age 70. Recent federal legislation prohibits such  
limitations.

17 Other portions of the bill correct references to MSRS laws,  
19 amend or delete definitions and amend the time of beginning and  
ending the payment of retirement allowances.