

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 977

H.P. 716

House of Representatives, March 29, 1989

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

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative HICKEY of Augusta.

Cosponsored by Senator CLARK of Cumberland, Representative JALBERT of Lisbon and Senator BUSTIN of Kennebec.

STATE OF MAINE

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

**An Act to Establish Disability Retirement Benefits for Members of the
Maine State Retirement System.**

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
3 become effective until 90 days after adjournment unless enacted
as emergencies; and

5 Whereas, the principal addition of this legislation is the
7 provision for rehabilitation services to recipients of disability
retirement benefits from the Maine State Retirement System; and

9 Whereas, the rehabilitation encouraging return to active
11 service is in the best interest of both recipients of disability
retirement benefits and employers; and

13 Whereas, in the judgment of the Legislature, these facts
15 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
17 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

21 **Sec. 1. 5 MRSA §17106, sub-§3, ¶¶C and D,** as enacted by PL
23 1985, c. 801, §§5 and 7, are amended to read:

25 C. Assist the executive director in determining if a
27 disability review of a recipient of a disability allowance
is warranted; and

29 D. Inform the executive director and board in writing of
31 its view as to the existence of a disability entitling an
applicant to benefits under chapter 423, subchapter V,
33 article articles 3 and 3-A, or chapter 425, subchapter V,
article articles 3 or 3-A; and

35 **Sec. 2. 5 MRSA §17106, sub-§3, ¶E** is enacted to read:

37 E. Make recommendations to the executive director and board
39 to determine if rehabilitation services should be provided
41 to a person who is the recipient of a disability retirement
benefit under chapter 423, subchapter V, article 3-A or
chapter 425, subchapter V, article 3-A.

43 **Sec. 3. 5 MRSA §17152,** as enacted by PL 1985, c. 801, §§5 and
7, is amended to read:

45 **§17152. Funds**

47 All of the assets of the retirement system shall be credited
49 according to the purpose for which they are held among 5 7 funds,
namely:

51 1. **Members' Contribution Fund.** The Members' Contribution
Fund;

- 1
2. Retirement Allowance Fund. The Retirement Allowance Fund;
3
4. Expense Fund. The Expense Fund;
5
6. Survivors' Benefit Fund. The Survivors' Benefit Fund; and
7
8. State Retiree Health Insurance Fund. The State Retiree
9 Health Insurance Fund; ;

11 6. State Retired Teachers' Health Insurance Fund. The
12 State Retired Teachers' Health Insurance Fund; and

13 7. Disability Retirement Benefit Fund. The Disability
14 Retirement Benefit Fund.

17 Sec. 4. 5 MRSA §17251, as enacted by PL 1985, c. 801, §§5 and
18 7, is amended to read:

19 §17251. Establishment

21 The Retirement Allowance Fund is established in which shall
22 be accumulated all reserves required for the payment of benefits
23 under this Part, other than reserves in the Members' Contribution
24 Fund and, the Survivors' Benefit Fund and the Disability
25 Retirement Benefit Fund.

27 Sec. 5. 5 MRSA c. 421, sub-c. IV, art. 8 is enacted to read:

29 Article 8. Disability Retirement Benefit Fund

31 §17421. Establishment

33 The Disability Retirement Benefit Fund is established in
34 which shall be accumulated all reserves required for the payment
35 of disability retirement benefits and other costs as set forth in
36 chapter 423, articles 3 and 3-A and chapter 425, subchapter V,
37 articles 3 and 3-A. The fund shall include an account for the
38 accumulated contributions of former members who are recipients of
39 disability retirement benefits under this article.

41 §17422. Disability contribution

43 For each member, the State and those participating local
44 districts which have elected disability retirement benefits under
45 chapter 425, article 3 or 3-A shall pay annually into the
46 Disability Retirement Benefit Fund an amount equal to a certain
47 percentage of the annual earnable compensation of the member, to
48 be known as the "disability contribution."

1 §17423. Disability contribution rate

3 The percentage rate of the disability contribution,
5 described in section 17422, shall be fixed on the basis of the
7 liabilities established by chapter 423, subchapter V, articles 3
9 and 3-A and chapter 425, subchapter V, articles 3 and 3-A. There
 shall be one percentage rate applicable to all employers whose
 employees are covered by chapter 423, subchapter V, article 3-A,
 and chapter 425, subchapter V, article 3-A.

11 **Sec. 6. 5 MRSA §17755**, as enacted by PL 1985, c. 801, §§5 and
13 7, is amended to read:

15 §17755. Disability retirement service credit

17 A beneficiary shall receive service credit for the purpose
19 of determining benefits under this Part for the period following
21 termination of service for which he the beneficiary receives
23 disability retirement benefits under subchapter V, artiele
25 articles 3 and 3-A.

27 **Sec. 7. 5 MRSA §17901-A** is enacted to read:

29 §17901-A. Applicability

31 This article applies to all disabilities for which written
33 applications are received by the executive director before July
35 1, 1989. All disabilities for which written applications are
37 received by the executive director after June 30, 1989, are
39 subject to article 3-A.

41 **Sec. 8. 5 MRSA c. 423, sub-c. V, art. 3-A** is enacted to read:

43 ARTICLE 3-A

45 DISABILITY RETIREMENT BENEFITS AFTER JUNE 30, 1989

47 §17921. Definitions

49 As used in this article, unless the context otherwise
51 indicates, the following terms have the following meanings.

53 1. Disabled. "Disabled" means that the member is mentally
55 or physically incapacitated under the following conditions:

57 A. The incapacity is expected to be permanent;

59 B. That it is impossible to perform the duties of the
61 member's employment position;

63 C. After the incapacity has continued for 2 years, the
65 incapacity must render the member unable to engage in any

1 substantially gainful activity for which the member is
2 qualified by training, education or experience; and

3
4 D. The incapacity may be revealed by examinations or tests
5 conducted in accordance with section 17926.

6
7 2. Employment position. "Employment position" means:

8
9 A. The position in which the member is employed at the time
10 the member becomes incapacitated; or

11
12 B. A position of comparable stature and equal or greater
13 compensation and benefits which is made available to the
14 member by the member's employer.

15 **§17922. Applicability**

16
17 This article applies to all disabilities for which written
18 applications are received by the executive director after June
19 30, 1989.

20 **§17923. Statement of health**

21
22 1. Statement required. Any person who becomes a member of
23 the retirement system on or after July 1, 1989, shall submit a
24 statement of that person's health to the executive director on
25 forms prescribed by the executive director.

26
27 2. Additional information. If the executive director
28 determines that additional information is necessary to determine
29 the extent of any preexisting disability of the member, the
30 executive director may require that the member undergo medical
31 and, when appropriate, psychological examinations or tests with
32 the results submitted as evidence of the member's health. Any
33 examinations or tests under this subsection are governed by
34 section 17926.

35
36 3. Limitation on use. The statement of health or the
37 results of examinations or tests may be used only to determine
38 eligibility for a disability retirement benefit under section
39 17924, subsection 2.

40
41 4. Sanction. Any member who is required to submit a
42 statement of health under this section and who does not submit
43 the statement before applying for disability retirement benefits
44 is not eligible to receive those benefits unless that member
45 establishes to the satisfaction of the executive director that
46 the member meets the requirements of section 17924, subsection 2.
47

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3
§17924. Qualification for benefit

5 1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled:

7 A. While in service; and

9 B. Before reaching the normal retirement age.

11 2. Exception. A member with fewer than 5 years of
13 continuous creditable service immediately preceding that member's
15 application for a disability retirement benefit is not eligible
17 for that benefit if the disability is the result of a physical or
19 mental condition which existed before the member's membership in
21 the retirement system, unless the disability is a result of, or
23 has been substantially aggravated by, an injury or accident
25 received in the line of duty.

27
29
§17925. Application

31 In order to receive a benefit under this article:

33 1. Written application. The person must apply in writing
35 to the executive director in the format specified by the
37 executive director.

39 A. The executive director shall submit the application and
41 all pertinent medical and psychological information to the
43 medical board for review as required by section 17106,
45 subsection 3.

47 B. As required by section 17106, the medical board shall
49 make a recommendation as to whether or not the member may be
51 provided vocational rehabilitation services;

2. Workers' compensation. If the incapacity upon which the
application is based is a result of an injury or accident
received in the line of duty, the application must include proof
that the member has made application for benefits under the
workers' compensation laws;

3. Social security. If the employment for which creditable
service with the employer is allowed was also covered under the
United States Social Security Act, the application must include
proof that the member has made application for benefits under
this Act; and

4. Approval. The written application shall be approved by
the executive director upon finding that the member has met the
requirements of section 17924.

1
3 §17926. Examinations or tests

5 Any examinations or tests recommended by the medical board
7 in accordance with section 17106 or required by the executive
9 director under section 17921, subsection 1, paragraph D; section
11 17923, subsection 2; section 17924; section 17929, subsection 2,
13 paragraph B; or section 17933, subsection 3, paragraph A, are
15 governed as follows.

17 1. Agreed upon physician. The examinations or tests shall
19 be conducted by a qualified physician and, when appropriate, a
21 qualified psychologist mutually agreed upon by the executive
23 director and the member claiming to be disabled.

25 2. Agreed upon place. The examinations or tests shall be
27 conducted at a place mutually agreed upon by the executive
29 director and the member claiming to be disabled.

31 3. Costs. The costs incurred under subsections 1 and 2
33 shall be paid by the retirement system.

35 §17927. Rehabilitation

37 Upon recommendations from the medical board, rehabilitation
39 services shall be provided to any person who is the recipient of
41 a disability retirement benefit under this article. Services
43 shall be provided by private and public rehabilitation
45 counselors, government agencies and others approved by the
47 executive director as qualified to provide rehabilitation
49 services. The executive director shall consider a rehabilitation
51 counselor's rate of successfully placing rehabilitated employees
53 in jobs relative to the placement rates of other counselors in
the State as fundamental in deciding whether to approve the
counselor as qualified.

1. Rehabilitation plan. If rehabilitation is feasible and
recommended, the retirement system shall designate a
rehabilitation provider to evaluate the person and develop a
rehabilitation plan.

2. Costs. The executive director may contract with
rehabilitation providers to develop and carry out approved
rehabilitation plans.

A. Except as provided in paragraph B, the executive
director shall pay these providers from funds accumulated in
the Disability Retirement Benefit Fund.

B. If the person is entitled to other benefits to meet the
cost of rehabilitation services, that person must first
apply for and use those benefits to the extent available to
pay for the goods and services provided.

1 3. Approval of rehabilitation plan. The executive director
3 shall approve any rehabilitation plan that the executive director
5 finds to be in the person's best interest and consistent with the
7 purposes of this article. The person and the executive director
9 shall indicate in writing their approval of and agreement to the
11 submitted rehabilitation plan. The person shall approve the plan
13 within 30 days or, within that time period, submit to the
 executive director the name of an alternate provider for the
 executive director's consideration. If the rehabilitation plan
 includes return to employment with the employer for whom the
 person worked before becoming disabled, the employer shall also
 indicate in writing approval of the plan.

15 4. Decline of rehabilitation. If, after recommendation by
17 the medical board, a person declines use of the rehabilitation
19 services offered or refuses to agree to a rehabilitation plan
 approved by the executive director, the disability retirement
 benefit payments shall cease at the end of the month following
 the decline or refusal.

21 A. The executive director shall notify the person in
23 writing of the decision to discontinue the disability
 retirement benefit.

25 B. The decision shall be subject to appeal under section
27 17451.

29 C. If the person appeals the executive director's decision,
31 the disability retirement allowance shall not be
 discontinued until all appeals have been exhausted.

33 5. Monitoring of rehabilitation plan. Each rehabilitation
35 plan approved by the executive director shall contain a provision
37 for periodic review of progress being made by the person toward
39 achieving the goal of the plan. The provision relating to review
41 shall include authority for the executive director to terminate
 the plan or to amend the plan with the same provider or with a
 change of provider, based upon results of the review or at the
 request of the person or the provider. Subsections 1, 2, 3 and 4
 shall apply to any amended plans under this subsection.

43 6. Return to service. If the rehabilitation plan includes
45 return to employment with the person's former employer, that
47 person shall be reemployed in accordance with the plan. If the
49 plan does not include reemployment with the former employer, the
51 executive director shall notify the former employer, in writing,
 that the person has completed the rehabilitation plan and is
 ready to return to employment. The former employer shall
 reemploy the person in the first available position for which
 that person is qualified, taking into consideration that person's
 prior compensation and benefits, training, education and
 experience, including that person's rehabilitation plan.

1
3 7. Other employment under system. If the former employer
5 has not reemployed the person before the expiration of 3 months,
7 the executive director shall inform all other employers whose
9 employees are covered by this article and chapter 425, subchapter
11 V, article 3-A, of the availability of the person and solicit
13 their assistance in finding employment for that person.

15 §17928. Computation of benefit

17
19 When a member qualified under section 17924 retires, after
21 approval for disability retirement by the executive director in
23 accordance with section 17925, the member shall receive a
25 disability retirement benefit equal to 66 2/3% of that member's
27 average final compensation.

29 §17929. Payment of benefit

31
33 1. Beginning. Payment of disability retirement benefits
35 shall begin on the first day of the month following the date of
37 termination of active service of the member, but not more than 6
39 months before the date of receipt by the executive director of
41 the written application, by or on behalf of the member, for
43 disability retirement, unless it is shown that:

45 A. It was not reasonably possible to file the application
47 for disability retirement benefits within the 6-month
49 period; and

51 B. The application was made as soon as reasonably possible.

53 2. Cessation. Payment of disability retirement benefits
55 shall continue as long as a person is disabled, except that:

57 A. The disability retirement benefit ceases and a service
59 retirement benefit begins:

61 (1) On the 10th anniversary of the person's normal
63 retirement age, as defined in section 17001, subsection
65 23; or

67 (2) When the service retirement benefit of a person
69 equals or exceeds the amount of the disability
71 retirement benefit, if that occurs before the date in
73 subparagraph (1).

75 (a) When calculating the person's service
77 retirement benefit, the average final compensation
79 shall be the average final compensation at the
81 time that person terminated active service before
83 receiving disability retirement benefits

1 adjusted by the same percentage adjustments, if
3 any, that were applied to the disability
 retirement benefits under section 17806.

5 (b) The person shall receive service credit for
7 the purpose of determining benefits under this
 Part for the period following termination of
9 service for which that person receives disability
 retirement benefits under this article; and

11 B. The executive director may require, once each year, that
13 the person undergo examinations or tests, conducted in
 accordance with section 17926, to determine the person's
15 disability.

17 (1) After the disability has continued for 2 years,
19 the disability must render the person unable to engage
21 in any substantially gainful activity which is
 consistent with the person's training, education or
 experience and average final compensation adjusted by
 the same percentage adjustment as has been received
23 under section 17806.

25 (2) If the person refuses to submit to the
27 examinations or tests under this paragraph, the
 disability retirement benefit shall be discontinued
 until that person withdraws the refusal.

29 (3) If the person's refusal under subparagraph (2)
31 continues for one year, all rights to any further
 benefits under this article shall cease.

33 (4) If it is determined, on the basis of the
35 examinations or tests under this paragraph, that the
 disability of a person no longer exists, the payment of
 the disability retirement benefit shall cease.

37 (5) The executive director shall notify the person in
39 writing of the decision to discontinue the disability
41 retirement allowance under subparagraph (2) or (4).

43 (a) The decision shall be subject to appeal under
 section 17451.

45 (b) If the person appeals the executive
47 director's decision, the disability retirement
 allowance shall not be discontinued until all
 appeals have been exhausted.

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3 §17930. Reduction in amount of benefit

5 1. Definition. As used in this section, unless the context
7 otherwise indicates, "adjusted final compensation" means the rate
9 of pay of the person immediately before termination and becoming
11 the recipient of a disability retirement benefit adjusted by the
13 same percentage adjustment as has been received under section
15 17806.

17 2. Compensation from employment not covered by this
19 article. If any person who is the recipient of a disability
21 retirement benefit is reemployed by an employer whose employees
23 are not covered by this article and if the total of the person's
25 monthly disability retirement benefit for any year and the
27 person's total earnable compensation for that year exceeds the
29 person's average final compensation at the time that person
31 became a recipient of a disability retirement benefit, increased
33 or decreased by the same percentage adjustments as have been
35 granted by section 17806:

37 A. The excess shall be deducted from the disability or
39 service retirement benefits during the next calendar year;
41 the deductions to be prorated on a monthly basis in an
43 equitable manner prescribed by the board over the year or
45 part of the year for which the benefits are received;

47 B. The person shall reimburse the retirement system for any
49 excess payments not deducted under paragraph A. If the
51 retirement benefit payments are eliminated by this
53 subsection, the disability shall be deemed to no longer
55 exist, the payment of the disability retirement benefit
shall be discontinued and, except as provided in paragraph
C, all of the person's rights to benefits under this article
shall cease;

C. If, during the first 5 years of reemployment, the person
again becomes disabled, terminates employment and is not
covered by any other disability program, the retirement
system shall resume paying the disability retirement benefit
payable prior to the reemployment with all applicable
cost-of-living adjustments and shall provide rehabilitation
services under section 17927 if recommended by the medical
board. If the benefit payable under the other disability
program is not equal to or greater than the benefit under
this article, the retirement system shall pay the difference
between the amount of the benefit payable under the other
disability program and the amount of the benefit payable
under this article. The executive director shall require
examinations or tests to determine whether the person is
disabled as described in section 17921; and

D. At any time before the elimination of disability
retirement benefit payments by this subsection, the person
may request that benefit payments be terminated and the

1 executive director shall terminate benefit payments at the
2 end of the month in which the request is received.

3 3. Compensation from employment covered by this article.

4 If any person who is the recipient of a disability retirement
5 benefit is reemployed by that person's prior employer or any
6 other employer whose employees are covered by this article or
7 chapter 425, subchapter V, article 3-A, and if the total of the
8 person's disability benefit for any year and the person's total
9 earnable compensation for that year exceeds the adjusted final
10 compensation:

11 A. The disability or service retirement benefits will be
12 reduced during the next calendar year by the amount that the
13 total compensation exceeds the adjusted final compensation;

14 B. The deductions shall be prorated on a monthly basis in
15 an equitable manner prescribed by the board over the year or
16 part of the year during which the benefits are received;

17 C. The person shall reimburse the retirement system for any
18 excess payments not deducted under paragraph A;

19 D. The retirement benefit payments are eliminated by this
20 subsection if:

21 (1) The person shall again become a member of the
22 retirement system and begin contributing at the current
23 rate; and

24 (2) When the person again retires, the person shall
25 receive benefits computed on the basis of that person's
26 entire creditable service and in accordance with the
27 law in effect at that time;

28 E. If, during the first 5 years of reemployment, the person
29 again becomes disabled and terminates employment, the
30 retirement system shall resume paying the disability
31 retirement benefit payable prior to the reemployment with
32 all applicable cost-of-living adjustments, or if greater, a
33 disability retirement benefit based upon the person's
34 current average final compensation and shall provide
35 rehabilitation services under section 17927 if recommended
36 by the medical board. The executive director shall require
37 examinations or tests to determine whether the person is
38 disabled as defined in section 17921; and

39 F. At any time before the elimination of disability
40 retirement benefit payments by this subsection, the person
41 may request that benefit payments be terminated and the
42 executive director shall terminate benefit payments at the
43 end of the month in which the request is received.

1
2 4. Disability payments under other laws. The reduction of
3 disability retirement benefits because of disability benefits
4 received under other laws is governed as follows.

5
6 A. The amount of any disability retirement benefit payable
7 under this article shall be reduced by any amount received
8 by the person for the same disability under either or both
9 of the following:

11 (1) The workers' compensation or similar laws, except
12 amounts which may be paid or payable under Title 39,
13 section 56-B; or

14 (2) The United States Social Security Act, if the
15 employment for which creditable service with the
16 employer is allowed was also covered under that Act at
17 the date of disability retirement.

18
19 B. The reduction in the disability retirement benefit is
20 governed as follows:

21
22 (1) The initial disability retirement benefit shall be
23 reduced if necessary so that the benefit plus any
24 benefits under paragraph A do not exceed 80% of the
25 person's average final compensation;

26
27 (2) The amount determined by the calculation under
28 subparagraph (1) shall not be adjusted when
29 cost-of-living adjustments are applied to the benefits
30 listed under paragraph A; and

31
32 (3) Adjustments under section 17806 shall be applied
33 to the reduced disability retirement benefit calculated
34 under subparagraph (1) or paragraph C.

35
36 C. The disability retirement benefit may not be reduced
37 below the amount of the retirement benefit which is the
38 actuarial equivalent of the member's accumulated
39 contributions at the time of retirement.

40
41 D. Lump-sum settlements of benefits that reduce the
42 disability retirement benefit under this subsection shall be
43 prorated on a monthly basis in an equitable manner
44 prescribed by the board.

45
46 (1) These prorated lump-sum settlements may not
47 include any part of the lump-sum settlement
48 attributable to rehabilitation, attorneys',
49 physicians', nurses', hospital, medical, surgical or
50 related fees or charges or any amount paid or payable
51 under Title 39, section 56-B.

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(2) These prorated lump-sum settlements shall reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

E. Any dispute about amounts paid or payable under workers' compensation or the amount of the lump-sum settlement and its attributions shall be determined on petition by a single member of the Workers' Compensation Commission in accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

§17931. Statement of compensation

1. Requirement. The executive director shall require each person who is the recipient of a disability retirement benefit to submit, each calendar year, a statement of compensation received from any gainful occupation during that year.

2. Failure to submit statement. Failure to submit the statement under subsection 1 shall result in the following:

A. If the person fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the disability retirement benefit shall be withheld until the statement is submitted; or

B. If the person fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all rights to further benefits shall cease.

(1) The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

(2) The decision shall be subject to appeal under section 17451.

(3) If the person appeals the executive director's decision, the disability retirement allowance shall not be discontinued until all appeals have been exhausted.

§17932. Voluntary return to service

1. Right to reinstatement. If a person who is the recipient of a disability retirement benefit decides that the person is no longer incapacitated and is able to perform the duties of that person's employment position, the employer for whom the person last worked before becoming disabled shall reinstate the person to the first available position for which

1 the person is qualified and which is consistent with the person's
3 prior work experience. If a collective bargaining agreement
5 applies to such a position, the employer may offer only a
7 position which the person may claim by virtue of seniority
9 accumulated at the time of the disability, unless otherwise
11 specified in the collective bargaining agreement.

13 2. Dispute over mental or physical capacity. If there is a
15 dispute between the person and the former employer over the
17 person's mental or physical capacity to perform a specific job,
19 at the option of the person that dispute shall be resolved by a
21 majority of 3 physicians, one appointed and reimbursed by the
23 person, one appointed and reimbursed by the employer and one
25 appointed and reimbursed by the retirement system. If the 3
27 physicians resolve the dispute in favor of the person, the former
29 employer shall reimburse the physician appointed by the person.

31 3. Termination or reduction in benefits. At any time
33 before the elimination of disability retirement benefit payments
35 under section 17930, subsection 3, the person may request that
37 benefit payments be terminated and the executive director shall
39 terminate benefit payments at the end of the month in which the
41 request is received.

43 4. Reinstatement of benefits. If, during the first 5 years
45 of reinstatement, the person again becomes disabled and
47 terminates employment, the retirement system shall resume paying
49 the disability retirement benefit payable before the
51 reinstatement with all applicable cost-of-living adjustments, or
if greater, a disability retirement benefit based upon the
person's current average final compensation. The executive
director may require examinations or tests to determine whether
the person is disabled under section 17921.

35 §17933. Service retirement

37 1. Average final compensation. The service retirement
39 benefit of a person who returns to employment with that person's
41 former employer or any other employer whose employees are covered
43 by this article or chapter 425, subchapter V, article 3-A, after
45 having been the recipient of a disability retirement benefit,
shall be computed in its entirety using the average final
compensation as defined by section 17001, subsection 4, on the
date of that person's termination from service immediately before
becoming the recipient of a service retirement benefit.

47 2. Costs of benefits. The cost of benefits based upon
49 service credits earned before and during disability shall be
51 charged to the Disability Retirement Benefit Fund. The cost of
benefits based upon service credits earned after becoming
reemployed shall be charged to the account of the employer
through whom the service credits were earned.

1
3 3. Special plans. The service credits earned after return
5 to employment by a person who was employed under a special plan
7 before becoming the recipient of a disability retirement benefit
9 shall be credited toward completing the service requirements for
11 retirement under that special plan. As used in this section,
13 unless the context otherwise indicates, "special plan" means any
15 of the retirement programs in section 17851, subsections 4 to 11
17 or section 18453, subsections 2 to 9.

11 A. The executive director may require, once each year, that
13 the member undergo examinations or tests, conducted in
15 accordance with section 17926, to determine that the member
17 is still disabled to the extent that it is impossible to
19 perform the duties of that member's former employment
21 position.

17 B. If the member refuses to submit to the examinations or
19 tests under paragraph A, the service credits earned after
21 that date shall be based upon the plan applicable to the
23 position in which the member is currently employed.

23 C. If it is determined on the basis of the examinations or
25 tests under paragraph A that the member is no longer
27 disabled to the extent that it is impossible to perform the
29 duties of the former employment position, the member shall:

27 (1) Return to employment in a position covered by the
29 same special plan or a comparable special plan that
31 covered the former employment position; or

31 (2) Remain in the current employment position and have
33 the service credits earned thereafter based upon the
35 plan applicable to the position in which the member is
37 currently employed.

37 **§17934. Optional election**

39 Any person entitled to receive a disability retirement
41 benefit under article 3, as in effect immediately before July 1,
43 1989, may elect to be governed by this article instead of article
45 3 by making written application to the executive director within
47 6 months of the effective date of this article.

45 **Sec. 9. 5 MRSA §18355, as enacted by PL 1985, c. 801, §§5 and**
47 **7, is amended to read:**

47 **§18355. Disability retirement service credit**

49 A beneficiary shall receive service credit for the purpose
51 of determining benefits under this Part for the period following
termination of service for which he the beneficiary receives

1 disability retirement benefits under subchapter V, article
articles 3 and 3-A.

3
5 **Sec. 10. 5 MRSA §18501-A** is enacted to read:

7 **§18501-A. Applicability**

9 This article applies to all disabilities for which written
11 applications are received by the executive director before July
13 1, 1989. All disabilities for which written applications are
15 received by the executive director after June 30, 1989, are
17 subject to article 3-A.

19 **Sec. 11. 5 MRSA c. 425, sub-c. V, art. 3-A** is enacted to read:

21 **ARTICLE 3-A**

23 **DISABILITY RETIREMENT BENEFITS AFTER JUNE 30, 1989**

25 **§18521. Definitions**

27 As used in this article, unless the context otherwise
29 indicates, the following terms have the following meanings.

31 1. Disabled. "Disabled" means that the member is mentally
33 or physically incapacitated under the following conditions:

35 A. The incapacity is expected to be permanent;

37 B. That it is impossible to perform the duties of the
39 member's employment position;

41 C. After the incapacity has continued for 2 years, the
43 incapacity must render the member unable to engage in any
45 substantially gainful activity for which the member is
47 qualified by training, education or experience; and

D. The incapacity may be revealed by examinations or tests
conducted in accordance with section 18526.

2. Employment position. "Employment position" means:

A. The position in which the member is employed at the time
the member becomes incapacitated; or

B. A position of comparable stature and equal or greater
compensation and benefits which is made available to the
member by the member's employer.

1
3 §18522. Applicability

5 This article applies to all disabilities for which written
7 applications are received by the executive director after June
9 30, 1989.

11 §18523. Statement of health

13 1. Statement required. Any person who becomes a member of
15 the retirement system on or after July 1, 1989, shall submit a
17 statement of that person's health to the executive director on
19 forms prescribed by the executive director.

21 2. Additional information. If the executive director
23 determines that additional information is necessary to determine
25 the extent of any preexisting disability of the member, the
27 executive director may require that the member undergo medical
29 and, when appropriate, psychological examinations or tests with
31 the results submitted as evidence of the member's health. Any
33 examinations or tests under this subsection are governed by
35 section 18526.

3. Limitation on use. The statement of health or the
results of examinations or tests may be used only to determine
eligibility for a disability retirement benefit under section
18524, subsection 2.

4. Sanction. Any member who is required to submit a
statement of health under this section and who does not submit
the statement before applying for disability retirement benefits
is not eligible to receive those benefits unless that member
establishes to the satisfaction of the executive director that
the member meets the requirements of section 18524, subsection 2.

§18524. Qualification for benefit

1. Qualification. Except as provided in subsection 2, a
member qualifies for a disability retirement benefit if disabled:

41 A. While in service; and

43 B. Before reaching the normal retirement age.

45 2. Exception. A member with fewer than 5 years of
47 continuous creditable service immediately preceding that member's
49 application for a disability retirement benefit is not eligible
51 for that benefit if the disability is the result of a physical or
53 mental condition which existed before the member's membership in
the retirement system, unless the disability is a result of, or
has been substantially aggravated by, an injury or accident
received in the line of duty.

1 §18525. Application

3 In order to receive a benefit under this article:

5 1. Written application. The person must apply in writing
7 to the executive director in the format specified by the
 executive director.

9 A. The executive director shall submit the application and
11 all pertinent medical and psychological information to the
 medical board for review as required by section 17106,
 subsection 3.

13 B. As required by section 17106, the medical board shall
15 make a recommendation as to whether or not the member may be
 provided vocational rehabilitation services;

17 2. Workers' compensation. If the incapacity upon which the
19 application is based is a result of an injury or accident
21 received in the line of duty, the application must include proof
 that the member has made application for benefits under the
 workers' compensation laws;

23 3. Social security. If the employment for which creditable
25 service with the employer is allowed was also covered under the
27 United States Social Security Act, the application must include
 proof that the member has made application for benefits under
 this Act; and

29 4. Approval. The written application shall be approved by
31 the executive director upon finding that the member has met the
 requirements of section 18524.

33 §18526. Examinations or tests

35 Any examinations or tests recommended by the medical board
37 in accordance with section 17106 or required by the executive
39 director under section 18521, subsection 1, paragraph D; section
41 18523, subsection 2; section 18524; section 18529, subsection 2,
 paragraph B; or section 18533, subsection 3, paragraph A, are
 governed as follows.

43 1. Agreed upon physician. The examinations or tests shall
45 be conducted by a qualified physician and, when appropriate, a
 qualified psychologist mutually agreed upon by the executive
 director and the member claiming to be disabled.

47 2. Agreed upon place. The examinations or tests shall be
49 conducted at a place mutually agreed upon by the executive
 director and the member claiming to be disabled.

51 3. Costs. The costs incurred under subsections 1 and 2
53 shall be paid by the retirement system.

1 **§18527. Rehabilitation**

3 Upon recommendations from the medical board, rehabilitation
5 services shall be provided to any person who is the recipient of
7 a disability retirement benefit under this article. Services
9 shall be provided by private and public rehabilitation
11 counselors, government agencies and others approved by the
13 executive director as qualified to provide rehabilitation
15 services. The executive director shall consider a rehabilitation
17 counselor's rate of successfully placing rehabilitated employees
19 in jobs relative to the placement rates of other counselors in
21 the State as fundamental in deciding whether to approve the
23 counselor as qualified.

25 1. Rehabilitation plan. If rehabilitation is feasible and
27 recommended, the retirement system shall designate a
29 rehabilitation provider to evaluate the person and develop a
31 rehabilitation plan.

33 2. Costs. The executive director may contract with
35 rehabilitation providers to develop and carry out approved
37 rehabilitation plans.

39 A. Except as provided in paragraph B, the executive
41 director shall pay these providers from funds accumulated in
43 the Disability Retirement Benefit Fund.

45 B. If the person is entitled to other benefits to meet the
47 cost of rehabilitation services, that person must first
49 apply for and use those benefits to the extent available to
51 pay for the goods and services provided.

53 3. Approval of rehabilitation plan. The executive director
55 shall approve any rehabilitation plan the executive director
57 finds to be in the person's best interest and consistent with the
59 purposes of this article. The person and the executive director
61 shall indicate in writing their approval of and agreement to the
63 submitted rehabilitation plan. The person shall approve the plan
65 within 30 days or, within that time period, submit to the
67 executive director the name of an alternate provider for the
69 executive director's consideration. If the rehabilitation plan
71 includes return to employment with the employer for whom the
73 person worked before becoming disabled, the employer shall also
75 indicate in writing approval of the plan.

77 4. Decline of rehabilitation. If, after recommendation by
79 the medical board, a person declines use of the rehabilitation
81 services offered or refuses to agree to a rehabilitation plan
83 approved by the executive director, the disability retirement
85 benefit payments shall cease at the end of the month following
87 the decline or refusal.

1 A. The executive director shall notify the person in
3 writing of the decision to discontinue the disability
 retirement benefit.

5 B. The decision shall be subject to appeal under section
7 17451.

9 C. If the person appeals the executive director's decision,
11 the disability retirement allowance shall not be
 discontinued until all appeals have been exhausted.

13 5. Monitoring of rehabilitation plan. Each rehabilitation
15 plan approved by the executive director shall contain a provision
17 for periodic review of progress being made by the person toward
19 achieving the goal of the plan. The provision relating to review
21 shall include authority for the executive director to terminate
 the plan or to amend the plan with the same provider or with a
 change of provider, based upon results of the review or at the
 request of the person or the provider. Subsections 1, 2, 3 and 4
 shall apply to any amended plans under this subsection.

23 6. Return to service. If the rehabilitation plan includes
25 return to employment with the person's former employer, that
27 person shall be reemployed in accordance with the plan. If the
29 plan does not include reemployment with the former employer, the
31 executive director shall notify the former employer, in writing,
33 that the person has completed the rehabilitation plan and is
 ready to return to employment. The former employer shall
 reemploy the person in the first available position for which
 that person is qualified, taking into consideration that person's
 prior compensation and benefits, training, education and
 experience, including that person's rehabilitation plan.

35 7. Other employment under system. If the former employer
37 has not reemployed the person before the expiration of 3 months,
39 the executive director shall inform all other employers whose
 employees are covered by this article and chapter 423, subchapter
 V, article 3-A, of the availability of the person and solicit
 their assistance in finding employment for that person.

41 **§18528. Computation of benefit**

43 When a member qualified under section 18524 retires, after
45 approval for disability retirement by the executive director in
47 accordance with section 18525, the member shall receive a
 disability retirement benefit equal to 66 2/3% of that member's
 average final compensation.

49 **§18529. Payment of benefit**

51 1. Beginning. Payment of disability retirement benefits
 shall begin on the first day of the month following the date of

1 termination of active service of the member, but not more than 6
3 months before the date of receipt by the executive director of
5 the written application, by or on behalf of the member, for
7 disability retirement, unless it is shown that:

9 A. It was not reasonably possible to file the application
11 for disability retirement benefits within the 6-month
13 period; and

15 B. The application was made as soon as reasonably possible.

17 2. Cessation. Payment of disability retirement benefits
19 shall continue as long as a person is disabled, except that:

21 A. The disability retirement benefit ceases and a service
23 retirement benefit begins:

25 (1) On the 10th anniversary of the person's normal
27 retirement age, as defined in section 17001, subsection
29 23; or

31 (2) When the service retirement benefit of a person
33 equals or exceeds the amount of the disability
35 retirement benefit, if that occurs before the date in
37 subparagraph (1).

39 (a) When calculating the person's service
41 retirement benefit, the average final compensation
43 shall be the average final compensation at the
45 time that person terminated active service before
47 receiving disability retirement benefits adjusted
49 by the same percentage adjustments, if any, that
51 were applied to the disability retirement benefits
under section 18407.

(b) The person shall receive service credit for
the purpose of determining benefits under this
Part for the period following termination of
service for which that person receives disability
retirement benefits under this article; and

B. The executive director may require, once each year, that
the person undergo examinations or tests, conducted in
accordance with section 18526, to determine the person's
disability.

(1) After the disability has continued for 2 years,
the disability must render the person unable to engage
in any substantially gainful activity which is
consistent with the person's training, education or
experience and average final compensation adjusted by

1 the same percentage adjustment as has been received
3 under section 18407.

5 (2) If the person refuses to submit to the
7 examinations or tests under this paragraph, the
disability retirement benefit shall be discontinued
until that person withdraws the refusal.

9 (3) If the person's refusal under subparagraph (2)
11 continues for one year, all rights to any further
benefits under this article shall cease.

13 (4) If it is determined, on the basis of the
15 examinations or tests under this paragraph, that the
disability of a person no longer exists, the payment of
17 the disability retirement benefit shall cease.

19 (5) The executive director shall notify the person in
21 writing of the decision to discontinue the disability
retirement allowance under subparagraph (2) or (4).

23 (a) The decision shall be subject to appeal under
section 17451.

25 (b) If the person appeals the executive
27 director's decision, the disability retirement
allowance shall not be discontinued until all
29 appeals have been exhausted.

31 **§18530. Reduction in amount of benefit**

33 1. Definition. As used in this section, unless the context
otherwise indicates, "adjusted final compensation" means the rate
35 of pay of the person immediately before termination and becoming
the recipient of a disability retirement benefit adjusted by the
37 same percentage adjustment as has been received under section
18407.

39 2. Compensation from employment not covered by this
41 article. If any person who is the recipient of a disability
retirement benefit is reemployed by an employer whose employees
43 are not covered by this article and if the total of the person's
monthly disability retirement benefit for any year and the
45 person's total earnable compensation for that year exceeds the
person's average final compensation at the time that person
47 became a recipient of a disability retirement benefit, increased
or decreased by the same percentage adjustments as have been
49 granted by section 18407:

51 A. The excess shall be deducted from the disability or
service retirement benefits during the next calendar year;
the deductions to be prorated on a monthly basis in an

1 equitable manner prescribed by the board over the year or
2 part of the year for which the benefits are received;

3
4 B. The person shall reimburse the retirement system for any
5 excess payments not deducted under paragraph A. If the
6 retirement benefit payments are eliminated by this
7 subsection, the disability shall be deemed to no longer
8 exist, the payment of the disability retirement benefit
9 shall be discontinued and, except as provided in paragraph
10 C, all of the person's rights to benefits under this article
11 shall cease;

12
13 C. If, during the first 5 years of reemployment, the person
14 again becomes disabled, terminates employment and is not
15 covered by any other disability program, the retirement
16 system shall resume paying the disability retirement benefit
17 payable prior to the reemployment with all applicable
18 cost-of-living adjustments and shall provide rehabilitation
19 services under section 18527 if recommended by the medical
20 board. If the benefit payable under the other disability
21 program is not equal to or greater than the benefit under
22 this article, the retirement system shall pay the difference
23 between the amount of the benefit payable under the other
24 disability program and the amount of the benefit payable
25 under this article. The executive director shall require
26 examinations or tests to determine whether the person is
27 disabled as described in section 18521; and

28
29 D. At any time before the elimination of disability
30 retirement benefit payments by this subsection, the person
31 may request that benefit payments be terminated and the
32 executive director shall terminate benefit payments at the
33 end of the month in which the request is received.

34
35 3. Compensation from employment covered by this article.
36 If any person who is the recipient of a disability retirement
37 benefit is reemployed by that person's prior employer or any
38 other employer whose employees are covered by this article or
39 chapter 423, subchapter V, article 3-A, and if the total of the
40 person's disability benefit for any year and the person's total
41 earnable compensation for that year exceeds the adjusted final
42 compensation:

43
44 A. The disability or service retirement benefits will be
45 reduced during the next calendar year by the amount that the
46 total compensation exceeds the adjusted final compensation;

47
48 B. The deductions shall be prorated on a monthly basis in
49 an equitable manner prescribed by the board over the year or
50 part of the year during which the benefits are received;

1 C. The person shall reimburse the retirement system for any
3 excess payments not deducted under paragraph A;

5 D. The retirement benefit payments are eliminated by this
7 subsection if:

9 (1) The person shall again become a member of the
11 retirement system and begin contributing at the current
13 rate; and

15 (2) When the person again retires, the person shall
17 receive benefits computed on the basis of that person's
19 entire creditable service and in accordance with the
21 law in effect at that time;

23 E. If, during the first 5 years of reemployment, the person
25 again becomes disabled and terminates employment, the
27 retirement system shall resume paying the disability
29 retirement benefit payable prior to the reemployment with
31 all applicable cost-of-living adjustments, or if greater, a
33 disability retirement benefit based upon the person's
35 current average final compensation and shall provide
37 rehabilitation services under section 18527 if recommended
39 by the medical board. The executive director shall require
41 examinations or tests to determine whether the person is
43 disabled as defined in section 18521; and

45 F. At any time before the elimination of disability
47 retirement benefit payments by this subsection, the person
49 may request that benefit payments be terminated and the
51 executive director shall terminate benefit payments at the
end of the month in which the request is received.

4. Disability payments under other laws. The reduction of
disability retirement benefits because of disability benefits
received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable
under this article shall be reduced by any amount received
by the person for the same disability under either or bother
of the following:

(1) The workers' compensation or similar laws, except
amounts which may be paid or payable under Title 39,
section 56-B; or

(2) The United States Social Security Act, if the
employment for which creditable service with the
employer is allowed was also covered under that Act at
the date of disability retirement.

1 B. The reduction in the disability retirement benefit is
2 governed as follows:

3
4 (1) The initial disability retirement benefit shall be
5 reduced if necessary so that the benefit plus any
6 benefits under paragraph A do not exceed 80% of the
7 person's average final compensation;

8
9 (2) The amount determined by the calculation under
10 subparagraph (1) shall not be adjusted when
11 cost-of-living adjustments are applied to the benefits
12 listed under paragraph A; and

13
14 (3) Adjustments under section 18407 shall be applied
15 to the reduced disability retirement benefit calculated
16 under subparagraph (1) or paragraph C.

17
18 C. The disability retirement benefit may not be reduced
19 below the amount of the retirement benefit which is the
20 actuarial equivalent of the member's accumulated
21 contributions at the time of retirement.

22
23 D. Lump-sum settlements of benefits that reduce the
24 disability retirement benefit under this subsection shall be
25 prorated on a monthly basis in an equitable manner
26 prescribed by the board.

27
28 (1) These prorated lump-sum settlements may not
29 include any part of the lump-sum settlement
30 attributable to rehabilitation, attorneys',
31 physicians', nurses', hospital, medical, surgical or
32 related fees or charges or any amount paid or payable
33 under Title 39, section 56-B.

34
35 (2) These prorated lump-sum settlements shall reduce
36 the disability retirement benefit in the same manner
37 and amount as monthly benefits under this subsection.

38
39 E. Any dispute about amounts paid or payable under workers'
40 compensation or the amount of the lump-sum settlement and
41 its attributions shall be determined on petition by a single
42 member of the Workers' Compensation Commission in accordance
43 with Title 39. These determinations may be appealed under
44 Title 39, section 103-B.

45 **§18531. Statement of compensation**

46
47 1. Requirement. The executive director shall require each
48 person who is the recipient of a disability retirement benefit to
49 submit, each calendar year, a statement of compensation received
50 from any gainful occupation during that year.
51

1 2. Failure to submit statement. Failure to submit the
2 statement under subsection 1 shall result in the following:

3 A. If the person fails to submit the statement required
4 under subsection 1 within 30 days of receipt of the
5 executive director's request for the statement, the
6 disability retirement benefit shall be withheld until the
7 statement is submitted; or

8 B. If the person fails to submit the statement required
9 under subsection 1 within one year of receipt of the
10 executive director's request for the statement, all rights
11 to further benefits shall cease.

12 (1) The executive director shall notify the person in
13 writing of the decision to discontinue the disability
14 retirement benefit.

15 (2) The decision shall be subject to appeal under
16 section 17451.

17 (3) If the person appeals the executive director's
18 decision, the disability retirement allowance shall not
19 be discontinued until all appeals have been exhausted.

20 §18532. Voluntary return to service

21 1. Right to reinstatement. If a person who is the
22 recipient of a disability retirement benefit decides that the
23 person is no longer incapacitated and is able to perform the
24 duties of that person's employment position, the employer for
25 whom the person last worked before becoming disabled shall
26 reinstatement the person to the first available position for which
27 the person is qualified and which is consistent with the person's
28 prior work experience. If a collective bargaining agreement
29 applies to such a position, the employer may offer only a
30 position which the person may claim by virtue of seniority
31 accumulated at the time of the disability, unless otherwise
32 specified in the collective bargaining agreement.

33 2. Dispute over mental or physical capacity. If there is a
34 dispute between the person and the former employer over the
35 person's mental or physical capacity to perform a specific job,
36 at the option of the person that dispute shall be resolved by a
37 majority of 3 physicians, one appointed and reimbursed by the
38 person, one appointed and reimbursed by the employer and one
39 appointed and reimbursed by the retirement system. If the 3
40 physicians resolve the dispute in favor of the person, the former
41 employer shall reimburse the physician appointed by the person.

42 3. Termination or reduction in benefits. At any time
43 before the elimination of disability retirement benefit payments

1 under section 18530, subsection 3, the person may request that
2 benefit payments be terminated and the executive director shall
3 terminate benefit payments at the end of the month in which the
4 request is received.

5
6 4. Reinstatement of benefits. If, during the first 5 years
7 of reinstatement, the person again becomes disabled and
8 terminates employment, the retirement system shall resume paying
9 the disability retirement benefit payable before the
10 reinstatement with all applicable cost-of-living adjustments, or
11 if greater, a disability retirement benefit based upon the
12 person's current average final compensation. The executive
13 director may require examinations or tests to determine whether
14 the person is disabled under section 18521.

15 **§18533. Service retirement**

16
17 1. Average final compensation. The service retirement
18 benefit of a person who returns to employment with that person's
19 former employer or any other employer whose employees are covered
20 by this article or chapter 423, subchapter V, article 3-A, after
21 having been the recipient of a disability retirement benefit,
22 shall be computed in its entirety using the average final
23 compensation as defined by section 17001, subsection 4, on the
24 date of that person's termination from service immediately before
25 becoming the recipient of a service retirement benefit.

26
27 2. Costs of benefits. The cost of benefits based upon
28 service credits earned before and during disability shall be
29 charged to the Disability Retirement Benefit Fund. The cost of
30 benefits based upon service credits earned after becoming
31 reemployed shall be charged to the account of the employer
32 through whom the service credits were earned.

33
34 3. Special plans. The service credits earned after return
35 to employment by a person who was employed under a special plan
36 before becoming the recipient of a disability retirement benefit
37 shall be credited toward completing the service requirements for
38 retirement under that special plan. As used in this section,
39 unless the context otherwise indicates, "special plan" means any
40 of the retirement programs in section 17851, subsections 4 to 11
41 or section 18453, subsections 2 to 9.

42
43 A. The executive director may require, once each year, that
44 the member undergo examinations or tests, conducted in
45 accordance with section 18526, to determine that the member
46 is still disabled to the extent that it is impossible to
47 perform the duties of that member's former employment
48 position.

49
50 B. If the member refuses to submit to the examinations or
51 tests under paragraph A, the service credits earned after

1 that date shall be based upon the plan applicable to the
2 position in which the member is currently employed.

3
4 C. If it is determined on the basis of the examinations or
5 tests under paragraph A that the member is no longer
6 disabled to the extent that it is impossible to perform the
7 duties of the former employment position, the member shall:

8
9 (1) Return to employment in a position covered by the
10 same special plan or a comparable special plan that
11 covered the former employment position; or

12
13 (2) Remain in the current employment position and have
14 the service credits earned thereafter based upon the
15 plan applicable to the position in which the member is
16 currently employed.

17 **§18534. Optional election**

18
19 Any person entitled to receive a disability retirement
20 benefit under article 3, as in effect immediately before July 1,
21 1989, or under section 1122 of the former retirement system law,
22 as in effect immediately before July 1, 1977, may elect to be
23 governed by this article instead of article 3 by making written
24 application to the executive director within 6 months after
25 adoption of this article by the participating local district. If
26 the election is made, this article shall apply from the date of
27 the person's original eligibility for disability retirement, but
28 any increase in benefits may only be granted from the date of
29 election.

30
31 **Emergency clause.** In view of the emergency cited in the
32 preamble, this Act shall take effect July 1, 1989.

33
34
35 **STATEMENT OF FACT**

36
37
38
39 This bill establishes a new disability retirement plan for
40 members of the Maine State Retirement System. This new plan will
41 be applicable to state employees, teachers and employees of
42 participating local districts which have adopted as part of their
43 retirement plan the disability retirement plan set forth in the
44 Maine Revised Statutes, Title 5, chapter 425, subchapter V,
45 article 3. Subsequent to its enactment, other participating
46 local districts may adopt this new plan.

47
48 The principal difference between the existing disability
49 retirement plan and the plan contained in this bill is that under
50 this plan the Maine State Retirement System may provide
51 rehabilitation services to recipients of disability retirement
benefits upon recommendation of the Maine State Retirement

1 System's medical board. Any person who returns to employment
2 with that person's previous employer or any other employer whose
3 employees are covered by this plan would have no reduction in
4 disability retirement benefits until combined earnings on the new
5 job and disability retirement benefit exceed the amount that
6 would have been earned had that person continued to be employed
7 on the previous job. A person who becomes employed by an
8 employer whose employees are not covered by this plan would have
9 that person's earnings limited to the difference between the
10 average final compensation, plus cost-of-living adjustments and
11 the disability retirement benefit.

13 Sections 1 and 2 add to the duties of the Maine State
14 Retirement System's medical board to include duties relating to
15 the new disability plan.

17 Section 3 adds the Disability Retirement Benefit Fund to the
18 list of funds administered by the Maine State Retirement System
19 and corrects an error in prior legislation when a new fund was
20 created, but not added to this list.

21 Section 4 amends a section relating to the Retirement
22 Allowance Fund recognizing the establishment of the Disability
23 Retirement Benefit Fund.

25 Section 5 establishes the Disability Retirement Benefit Fund
26 from which all benefits under this plan will be paid. The State,
27 as the employer of state employees and teachers and participating
28 local districts whose employees are covered by this plan, will
29 make contributions to the fund based upon actuarial valuations,
30 including all members of the retirement system covered by this
31 plan and there will be one rate applicable to all employers.

33 Sections 6 and 9 amend 2 sections in the present law to
34 provide for continuation of service credits for persons who are
35 recipients of disability retirement benefits under this plan in
36 the same manner as persons receiving benefits under the present
37 plan receive service credits.

39 Sections 7 and 10 provide that all disabilities which occur
40 before the effective date of this bill are subject to the present
41 disability retirement plan and all disabilities which occur on
42 and after the effective date of this bill are subject to this
43 plan.

45 Sections 8 and 11 contain the statutory language for the new
46 disability retirement plan. Section 8 pertains to state
47 employees and teachers and section 11 pertains to participating
48 local district employees. The principal differences between the
49 present disability retirement plan and this plan were discussed
50 in the first paragraph. If a person who is the recipient of a
51 disability retirement benefit has that benefit discontinued

1 because of becoming reemployed, that person is entitled to have
3 those benefit payments resumed if that person again becomes
5 disabled within 5 years of becoming reemployed. A person who is
7 reemployed by any employer whose employees are covered by this
9 plan will have complete portability between the person's
11 predisability employment and post-disability employment. A
13 person who was under a special plan, such as police or
15 firefighter, before becoming disabled will receive credit toward
17 retirement under that special plan upon becoming reemployed in
any position covered by this plan.

11
13 Because it is expected that the rehabilitation provision in
15 this bill will encourage return to active service of disability
17 recipients from the Maine State Retirement System, there will be
a reduction in the long-term costs of disability retirement. An
estimate of the reduction of contribution rates cannot be
determined.