

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1466

S.P. 562

In Senate, April 11, 1991

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

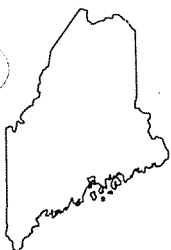
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Amend Certain Laws Administered by the Maine State
Retirement System.**



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

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

6 3. Average final compensation. "Average final
8 compensation" means the average annual rate of earnable
10 compensation of a member during the 3 years of creditable
12 service, not necessarily consecutive, as--a--Legislate~~r~~ in which
the average annual rate of earnable compensation is highest or
during his the member's entire period of creditable service if
the period is less than 3 years.

14 Sec. 2. 5 MRSA §17057, as enacted by PL 1989, c. 76, is
amended to read:

16 **§17057. Medical information not public record**

18 Medical information of any kind in the possession of the
20 retirement system, including information pertaining to diagnosis
22 or treatment of mental or emotional disorders, shall--be is
24 confidential and not open to public inspection and shall is not
26 be "public records" as defined in Title 1, section 402,
28 subsection 3. Records containing medical information may be
30 examined by the employee to whom they relate or by the State or
32 participating local district employer of the employee for any
34 purposes related to any claim for workers' compensation or any
other benefit. The employee shall must be advised in writing by
the retirement system of any request by the employer to examine
the employee's medical records. Medical information obtained
pursuant to this section shall must remain confidential, except
as otherwise provided by law, when involved in proceedings
regarding workers' compensation, proceedings resulting from an
appeal pursuant to section 17451 or proceedings regarding claims
for other benefits.

36 Sec. 3. 5 MRSA §17058 is enacted to read:

38 **§17058. Information for administrative or judicial proceedings**

40 If information regarding the availability, calculation or
42 value of any benefit is required for an administrative or
44 judicial proceeding, the party seeking the information must file
46 written questions requesting that information with the executive
48 director. The executive director, or the executive director's
designee, shall make a certified response to those questions
within 30 days and the certified response is admissible as
evidence in any administrative or judicial proceeding. A
subpoena or other form of discovery directed at obtaining the
information may not be issued nor may employees of the retirement
system be required to testify on the subjects covered by the

2 certified response unless there is an express finding by an
3 administrative agency or a court that there is a compelling
4 necessity to permit further discovery or to require testimony.

5 Sec. 4. 5 MRSA §17656, sub-§1, ¶C, as enacted by PL 1985, c.
6 801, §§5 and 7, is amended to read:

7 C. All If the new employer makes the election provided
8 under paragraph B, all funds in the retirement system
9 contributed by his the member's former employer on account
10 of his the member's previous employment shall must be
11 transferred to the account of the new employer and shall
12 must be used to liquidate the liability incurred by reason
13 of the previous employment.

14 Sec. 5. 5 MRSA §17703, sub-§1, as enacted by PL 1985, c. 801,
15 §§5 and 7, is amended to read:

16 1. Time. The repayment may not be made until the member has
17 accumulated at least 2 continuous years of creditable service
18 after the date of restoration to membership and must be made
19 before the date any retirement benefit becomes effective for the
20 member.

21 Sec. 6. 5 MRSA §17852, sub-§4, ¶A, as enacted by PL 1987, c.
22 652, §1, is amended to read:

23 A. For ~~persons~~ a person qualifying under section 17851,
24 subsection 4, paragraph A:

25 (1) The total amount of the service retirement benefit
26 is:

27 (a) Except as provided in division (b), 1/2 of
28 his the person's average final compensation and an
29 additional 2% of his the person's average final
30 compensation for each year of membership service
31 not included in determining qualification under
32 section 17851, subsection 4, paragraph A; or

33 (b) If his the benefit would be greater, the part
34 of his the person's service retirement benefit
35 based upon membership service before July 1, 1976,
36 ~~shall-be~~ determined, on a pro rata basis, on his
37 the person's current annual salary on the date of
38 retirement and the part of his the person's
39 service retirement benefit based upon membership
40 service after June 30, 1976, ~~shall-be~~ determined
41 in accordance with division (a); and

42 (2) Upon the death of a State Police Officer who is
43 receiving a retirement benefit after qualifying under

2 section 17851, subsection 4, paragraph A, without
3 optional modification, or is retired under article 3,
4 the surviving spouse is entitled to a retirement
5 benefit which that is 1/2 of the amount being paid at
6 the time of the officer's death. The payment shall
7 must continue for the remainder of the surviving
8 spouse's lifetime ~~or-until-he-becomes-the-dependent-of-another-person.~~

10 For the purpose of this subparagraph, "surviving
11 spouse" means the person the retired officer was
12 married to at the time of retirement or, if the retired
13 officer is divorced or widowed and remarried, the term
14 means the person legally married to the officer at the
15 time of the officer's death.

16
17 **Sec. 7. 5 MRSA §17852, sub-§5, ¶B,** as amended by PL 1987, c.
18 652, §2, is further amended to read:

20 B. Upon the death of a law enforcement officer of the
21 Department of Inland Fisheries and Wildlife who is receiving
22 a retirement benefit after qualifying under section 17851,
23 subsection 5, without optional modification, or is retired
24 under article 3, the surviving spouse is entitled to a
25 retirement benefit which that is 1/2 of the amount being
26 paid at the time of the officer's death. The payment shall
27 must continue for the remainder of the surviving spouse's
28 lifetime ~~or-until-he-becomes-the-dependent-of-another-person.~~

30 For the purpose of this paragraph, "surviving spouse" means
31 the person the retired officer was married to at the time of
32 retirement or, if the retired officer is divorced or widowed
33 and remarried, the term means the person legally married to
34 the officer at the time of the officer's death.

36 **Sec. 8. 5 MRSA §17852, sub-§6, ¶B,** as amended by PL 1987, c.
37 652, §3, is further amended to read:

38 B. Upon the death of a law enforcement officer of the
39 Department of Marine Resources who is receiving a retirement
40 benefit after qualifying under section 17851, subsection 6,
41 without optional modification, or is retired under article
42 3, the surviving spouse is entitled to a retirement benefit
43 which that is 1/2 of the amount being paid at the time of
44 the officer's death. The payment shall must continue for
45 the remainder of the surviving spouse's lifetime ~~or-until-he~~
46 ~~becomes-the-dependent-of-another-person.~~

48 For the purpose of this paragraph, "surviving spouse" means
49 the person the retired officer was married to at the time of
50 retirement or, if the retired officer is divorced or widowed

2 and remarried, the term means the person legally married to
the officer at the time of the officer's death.

4 Sec. 9. 5 MRSA §17924, sub-§2, as enacted by PL 1989, c. 409,
§§8 and 12, is amended to read:

6
8 2. Exception. A member with fewer than 5 years of
continuous creditable service immediately preceding that member's
10 application for a disability retirement benefit is not eligible
for that benefit if the disability is the result of a physical or
12 mental condition which that existed before the member's
membership in the retirement system, unless the disability is a
14 result of, or has been substantially aggravated by, an injury or
accident received in the line of duty. The board may determine
by rule what constitutes continuous creditable service.

16
18 Sec. 10. 5 MRSA §17927, sub-§6, as enacted by PL 1989, c. 409,
§§8 and 12, is amended to read:

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

32 Sec. 11. 5 MRSA §17927, sub-§7, as enacted by PL 1989, c. 409,
§§8 and 12, is repealed and the following enacted in its place:

34
36 7. Other employment under system. A person is not required
to accept employment that reasonably necessitates relocation or
for which the person is not qualified, taking into consideration
38 that person's prior compensation and benefits, training,
education and experience, including that person's rehabilitation
40 plan. The disability retirement benefit may not be discontinued
except as provided by section 17929 or until the person is
42 reemployed consistent with this section.

44 Sec. 12. 5 MRSA §18203-A is enacted to read:

46 §18203-A. Resumption of participation after withdrawal

48 The board may establish by rule the conditions under which a
local district that has withdrawn from participation in the
50 retirement system may again contract for participation of its

2 employees in the retirement system under this chapter or under
3 chapter 427.

4 Sec. 13. 5 MRSA §18253, sub-§1, ¶C, as enacted by PL 1985, c.
5 801, §§5 and 7, is amended to read:

6
7 C. All If the new employer makes the election provided
8 under paragraph B, all funds in the retirement system
9 contributed by the member's former employer on account of
10 his the member's previous employment shall must be
11 transferred to the account of the new employer and shall
12 must be used to liquidate the liability incurred by reason
13 of the previous employment.

14
15 Sec. 14. 5 MRSA §18304, sub-§1, as enacted by PL 1985, c. 801,
16 §§5 and 7, is amended to read:

17
18 1. Time. The repayment may not be made until the member has
19 accumulated at least 2 continuous years of creditable service
20 after the date of restoration to membership and must be made
21 before the date any retirement benefit becomes effective for the
22 member.

23
24 Sec. 15. 5 MRSA §18524, sub-§2, as enacted by PL 1989, c. 409,
25 §§11 and 12, is amended to read:

26
27 2. Exception. A member with fewer than 5 years of
28 continuous creditable service immediately preceding that member's
29 application for a disability retirement benefit is not eligible
30 for that benefit if the disability is the result of a physical or
31 mental condition which that existed before the member's
32 membership in the retirement system, unless the disability is a
33 result of, or has been substantially aggravated by, an injury or
34 accident received in the line of duty. The board may determine
35 by rule what constitutes continuous creditable service.

36
37 Sec. 16. 5 MRSA §18524-A is enacted to read:

38 §18524-A. Effect of district's resumption of participation after
39 withdrawal

40
41 The board may establish by rule the effect on employees of a
42 local district that resumes participation in the retirement
43 system after having previously withdrawn from participation.

44
45 Sec. 17. 5 MRSA §18527, sub-§6, as enacted by PL 1989, c. 409,
46 §§11 and 12, is amended to read:

47
48 6. Return to service. If the rehabilitation plan includes
49 return to employment with the person's former employer, that
50 person shall must be reemployed in accordance with the plan. If

~~the plan does not include reemployment with the former employer,~~
2 the The executive director shall notify the former employer, in
4 writing, that the person has completed the rehabilitation plan
6 and is ready to return to employment. The former employer shall
8 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.

10 **Sec. 18. 5 MRSA §18527, sub-§7, as enacted by PL 1989, c. 409,**
12 **§§11 and 12, is repealed and the following enacted in its place:**

14 7. Other employment under system. A person is not required
16 to accept employment that reasonably necessitates relocation or
18 for which the person is not qualified, taking into consideration
20 that person's prior compensation and benefits, training,
education and experience, including that person's rehabilitation
plan. The disability retirement benefit may not be discontinued
except as provided by section 18529 or until the person is
reemployed consistent with this section.

22 **STATEMENT OF FACT**

24 This bill makes changes to the laws governing the Maine
26 State Retirement System, including the following.

28 1. It establishes a procedure for obtaining information
30 regarding benefits for judicial or administrative proceedings.

32 2. It deletes language that eliminates benefits to the
34 surviving spouse of certain law enforcement officers when the
spouse "becomes the dependent of another person."

36 3. It authorizes the Board of Trustees of the Maine State
38 Retirement System to determine by rule what constitutes
"continuous creditable service."

40 4. It deletes language that requires the Executive Director
42 of the Maine State Retirement System to inform other employers of
certain former employees' availability to work.

44 5. It authorizes the Board of Trustees of the Maine State
46 Retirement System to establish conditions under which a local
district that has withdrawn from participation in the retirement
system may rejoin.