

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

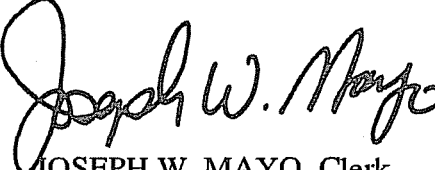
No. 1246

H.P. 922

House of Representatives, April 12, 1993

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

Submitted by the Maine State Retirement System pursuant to Joint Rule 24.
Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BARTH of Bethel.
Cosponsored by Representative: VIGUE of Winslow, Senator: TITCOMB of Cumberland.

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

2
4 **Sec. 1. 3 MRSA §805, sub-§1, ¶B,** as enacted by PL 1985, c. 507, §1, is amended to read:

6 B. Payment shall ~~must~~ be made upon application and upon
8 termination of service and in not less than 22 days and not
10 more than ~~37~~ 60 days after receipt of the application and
 receipt of the last payroll upon which the name of the
 member appears, whichever occurs later.

12 **Sec. 2. 4 MRSA §1305, sub-§1, ¶B,** as amended by PL 1989, c.
14 133, §27, is further amended to read:

16 B. Payment of accumulated contributions shall ~~may~~ not be
18 made earlier than 22 days nor more than ~~37~~ 60 days after
 receipt of the application and receipt of the last payroll
 upon which the name of the member appears, whichever occurs
 later.

20 **Sec. 3. 5 MRSA §17001, sub-§2,** as enacted by PL 1985, c. 801,
22 §§5 and 7, is amended to read:

24 2. **Actuarial equivalent.** "Actuarial equivalent" means an
26 amount of equal value when computed at an interest rate contained
 in actuarial assumptions adopted by the board and upon the basis
28 of mortality and service tables adopted by the board. "Actuarial
 equivalent," when used to indicate the amount that must be paid
30 in order to purchase service credit, means the amount that equals
 the cost of additional benefits that become payable as a result
32 of the service credit, including, when applicable, the projected
 cost of a member's earlier eligibility for retirement.

34 **Sec. 4. 5 MRSA §17154, sub-§6, ¶E** is enacted to read:

36 E. Notwithstanding this section, the employer retirement
38 costs related to the retirement system applicable to those
 teachers whose funding is provided directly or through
40 reimbursement from private or public grants must be paid by
 local school systems from those funds. "Public grants" does
42 not include state or local funds provided to school
 administrative units under Title 20-A, chapter 606.

44 **Sec. 5. 5 MRSA §17705, sub-§1, ¶A,** as enacted by PL 1987, c.
46 256, §6, is amended to read:

48 A. Payment shall ~~must~~ be made after termination of service
50 and not less than 22 days nor more than ~~37~~ 60 days after
 receipt of the application and receipt of the last payroll
 upon which the name of the member appears, whichever occurs
 later.

2 **Sec. 6. 5 MRSA §17705, sub-§2, ¶A**, as enacted by PL 1987, c.
3 256, §6, is amended to read:

4
5 A. Payment shall must be made after termination of service
6 and not less than 22 days nor more than 37 60 days after
7 receipt of the application and receipt of the last payroll
8 upon which the name of the member appears, whichever occurs
9 later.

10 **Sec. 7. 5 MRSA §17763, sub-§4** is enacted to read:

11
12 4. Alternative. In the determination of the retirement
13 benefit under this Part, if service credit for private or
14 parochial school teaching is not allowed under subsection 1 based
15 upon the member not meeting the requirements of subsection 1,
16 paragraph B or D, additional service credit for private or
17 parochial school teaching is allowed for any member who meets the
18 requirements of subsection 1, paragraphs A and E, if the member,
19 before any retirement benefit becomes effective for that member,
20 pays into the Members' Contribution Fund, by a single direct
21 payment or annual direct payments to the retirement system, an
22 amount that, together with regular interest on that amount, is
23 the actuarial equivalent, at the effective date of the retirement
24 benefit, of the portion of the retirement benefit based on the
25 additional creditable service.

26
27 Annual payments must be made in accordance with section 17701,
28 subsection 4.

29
30 A. Additional amounts paid under this subsection become a
31 part of the members' accumulated contributions.

32
33 B. If any retirement benefit becomes effective before the
34 completion of the payment under this subsection, the member
35 is entitled to service credit for that portion of the
36 additional creditable service that the total amount of
37 payments actually made, plus regular interest on those
38 payments to the date the retirement benefit becomes
39 effective, bears to the actuarial equivalent of the total
40 portion of the retirement benefit based on the additional
41 creditable service.

42
43 **Sec. 8. 5 MRSA §17852, sub-§3-A**, as enacted by PL 1991, c.
44 591, Pt. EEE, §10 and affected by §18, is repealed and the
45 following enacted in its place:

46
47 3-A. Member with creditable service of 25 years or more;
48 less than 7 years of creditable service on December 1, 1991. The
49 amount of the service retirement benefit for a member qualifying
50

2 under section 17851, subsection 3 is computed in accordance with
3 subsection 1, except that the amount arrived at under subsection
4 1 is reduced by 6% for each year that the member's age precedes
5 age 62.

6 This subsection applies to members who, on December 1, 1991, do
7 not have 7 years of creditable service.

8
9 **Sec. 9. 5 MRSA §17852, sub-§4, ¶A,** as amended by PL 1991, c.
10 580, §6, is further amended to read:

11 A. For a person qualifying under section 17851, subsection
12 4, paragraph A:

13 (1) The total amount of the service retirement benefit
14 is:

15 (a) Except as provided in division (b), 1/2 of
16 the person's average final compensation and an
17 additional 2% of the person's average final
18 compensation for each year of membership service
19 not included in determining qualification under
20 section 17851, subsection 4, paragraph A; or
21
22
23

24 (b) If the benefit would be greater, the part of
25 the person's service retirement benefit based upon
26 membership service before July 1, 1976,
27 determined, on a pro rata basis, on the person's
28 current annual salary on the date of retirement
29 and the part of the person's service retirement
30 benefit based upon membership service after June
31 30, 1976, determined in accordance with division
32 (a); and
33

34 (2) Upon the death of a ~~State-Police-Officer~~ state
35 police officer who is receiving a retirement benefit
36 after qualifying under section 17851, subsection 4,
37 paragraph A, without optional modification, or is
38 retired under article 3 or article 3-A, the surviving
39 spouse is entitled to a retirement benefit that is 1/2
40 of the amount being paid at the time of the officer's
41 death. The payment must continue for the remainder of
42 the surviving spouse's lifetime.
43

44 For the purpose of this subparagraph, "surviving
45 spouse" means the person the retired officer was
46 married to at the time of retirement or, if the retired
47 officer, at the time of retirement, is unmarried and
48 later marries; married and later is divorced or widowed
49 and remarries; or divorced or widowed and remarried
50

2 later remarries, the term means the person legally
3 married to the officer at the time of the officer's
4 death.

6 **Sec. 10. 5 MRSA §17852, sub-§4, ¶C-1**, as enacted by PL 1991, c.
7 591, Pt. EEE, §12 and affected by §18, is repealed and the
8 following enacted in its place:

10 C-1. For a person qualifying under section 17851,
11 subsection 4, paragraph B who retires before reaching the
12 age of 55, the retirement benefit is determined in
13 accordance with subsection 1, except that the amount arrived
14 at under subsection 1 is reduced by 6% for each year that
15 the member's age precedes 55.

16 This paragraph applies to members who, on December 1, 1991,
17 do not have 7 years of creditable service.

18 **Sec. 11. 5 MRSA §17852, sub-§5, ¶B**, as amended by PL 1991, c.
19 580, §7, is further amended to read:

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

32 For the purpose of this paragraph, "surviving spouse" means
33 the person the retired officer was married to at the time of
34 retirement or, if the retired officer, at the time of
35 retirement, is unmarried and later marries; married and
36 later is divorced or widowed and remarries; or divorced or
37 widowed and remarried later remarries, the term means the
38 person legally married to the officer at the time of the
39 officer's death.

40 **Sec. 12. 5 MRSA §17852, sub-§6, ¶B**, as amended by PL 1991, c.
41 580, §8, is further amended to read:

44 B. Upon the death of a law enforcement officer of the
45 Department of Marine Resources who is receiving a retirement
46 benefit after qualifying under section 17851, subsection 6,
47 without optional modification, or is retired under article 3
48 or article 3-A, the surviving spouse is entitled to a
49 retirement benefit that is 1/2 of the amount being paid at
50 the time of the officer's death. The payment must continue
for the remainder of the surviving spouse's lifetime.

2 For the purpose of this paragraph, "surviving spouse" means
4 the person the retired officer was married to at the time of
6 retirement or, if the retired officer, at the time of
8 retirement, is unmarried and later marries; married and
10 later is divorced or widowed and remarries; or divorced or
12 widowed and remarried later remarries, the term means the
14 person legally married to the officer at the time of the
16 officer's death.

18 **Sec. 13. 5 MRSA §17852, sub-§9**, as enacted by PL 1985, c. 801,
20 §§5 and 7, is repealed and the following enacted in its place:

22 **9. Liquor inspectors.** The total amount of the service
24 retirement benefit for a member qualifying under section 17851,
26 subsection 10 is computed as follows:

28 A. Except as provided in paragraph B, the total amount of
30 the service retirement benefit is 1/2 of the member's
32 average final compensation and an additional 2% of the
34 member's average final compensation for each year of
36 membership service not included in determining qualification
38 under section 17851, subsection 10; or

40 B. If the member's service retirement benefit would be
42 greater than the amount provided in paragraph A, the part of
44 the service retirement benefit based on membership service
46 before July 1, 1976 is determined, on a pro rata basis, on
48 the member's current final compensation and the part of the
service retirement benefit based on membership service after
June 30, 1976 is determined in accordance with paragraph A.

32 **Sec. 14. 5 MRSA §17852, sub-§10, ¶C-1**, as enacted by PL 1991,
34 c. 591, Pt. EEE, §14 and affected by §18, is repealed and the
36 following enacted in its place:

38 C-1. For a person qualifying under section 17851,
40 subsection 11, paragraph B who retires before reaching the
42 age of 55, the retirement benefit is determined in
44 accordance with subsection 1, except that the amount arrived
46 at under subsection 1 is reduced by 6% for each year that
48 the member's age precedes 55.

44 This paragraph applies to members who, on December 1, 1991,
46 do not have 7 years of creditable service.

48 **Sec. 15. 5 MRSA §17927, sub-§4, ¶C**, as enacted by PL 1989, c.
409, §§8 and 12, is amended to read:

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

6 **Sec. 16. 5 MRSA §17929, sub-§2, ¶B,** as enacted by PL 1989, c.
409, §§8 and 12, is amended to read:

8
10 B. The executive director may require, once each year, that
the person undergo examinations or tests, conducted in
12 accordance with section 17926, to determine the person's
disability. The executive director may refer the records
14 documenting the results of the examinations or tests and the
person's file to the medical board for a recommendation
16 regarding rehabilitation in accordance with section 17106,
subsection 3, paragraph E.

18 (1) After the disability has continued for 2 years,
the disability must render the person unable to engage
20 in any substantially gainful activity which that is
consistent with the person's training, education or
22 experience and average final compensation adjusted by
the same percentage adjustment as has been received
24 under section 17806. The disability retirement benefit
~~shall-continue~~ continues if the person can effectively
26 demonstrate to the executive director that the person
is actively seeking work.

28 (2) If the person refuses to submit to the
30 examinations or tests under this paragraph, the
disability retirement benefit ~~shall-be~~ is discontinued
32 until that person withdraws the refusal.

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

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

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

46 (a) The decision shall-~~be~~ is subject to appeal
48 under section 17451.

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

6 **Sec. 17. 5 MRSA §17931, sub-§2, ¶B,** as enacted by PL 1989, c.
7 409, §§8 and 12, is amended to read:

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~~ is subject to appeal under
16 section 17451.

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

21 **Sec. 18. 5 MRSA §18056, sub-§3, ¶C,** as enacted by PL 1985, c.
22 801, §§5 and 7, is amended to read:

23 C. The number of dependents may not ~~effeet~~ affect the
24 premium rate for insurance purchased under this subsection.

25 **Sec. 19. 5 MRSA §18303, sub-§3, ¶C,** as enacted by PL 1991, c.
26 185, §3, is amended to read:

27 C. May be subject to a late fee as directed by the board
28 and interest at a rate, to be set by the board and paid by
29 the ~~school-administrative-unit~~ participating local district,
30 not to exceed regular interest by 5 or more percentage
31 points.

32 **Sec. 20. 5 MRSA §18306, sub-§1, ¶A,** as enacted by PL 1987, c.
33 256, §25, is amended to read:

34 A. Payment shall must be made after termination of service
35 and not less than 22 days nor more than ~~37~~ 60 days after
36 receipt of the application and receipt of the last payroll
37 upon which the name of the member appears, whichever occurs
38 later.

2 **Sec. 21. 5 MRSA §18306, sub-§2, ¶A**, as enacted by PL 1987, c.
256, §25, is amended to read:

4 A. Payment shall must be made after termination of service
6 and not less than 22 days nor more than 37 60 days after
8 receipt of the application and receipt of the last payroll
upon which the name of the member appears, whichever occurs
later.

10 **Sec. 22. 5 MRSA §18413** is enacted to read:

12 **§18413. Election to reduce or discontinue benefits**

14 Any retiree or member who is retired or will retire may
16 elect to reduce or discontinue receiving any benefit upon written
18 request, duly certified and acknowledged, to the executive
19 director.

20 **Sec. 23. 5 MRSA §18453, sub-§2, ¶B**, as enacted by PL 1985, c.
801, §§5 and 7, is amended to read:

22 B. If ~~his~~ the member's benefit would be greater, the part
24 of ~~his~~ the service retirement benefit based upon membership
26 service before July 1, 1977, shall-~~be~~ is determined, on a
28 pro rata basis, on ~~his~~ the member's current annual salary on
30 the date of retirement or current final compensation,
31 whichever is greater, and the part of ~~his~~ the service
retirement benefit based upon membership service after June
30, 1977, shall--~~be~~ is determined in accordance with
paragraph A.

32 **Sec. 24. 5 MRSA §18453, sub-§4, ¶B**, as enacted by PL 1985, c.
801, §§5 and 7, is amended to read:

34 B. If ~~his~~ the member's benefit would be greater, the part
36 of ~~his~~ the service retirement benefit based upon membership
38 service before July 1, 1977, shall-~~be~~ is determined, on a
40 pro rata basis, on ~~his~~ the member's current annual-salary-~~on~~
42 ~~the date of retirement~~ final compensation and the part of
~~his~~ the service retirement benefit based upon membership
service after June 30, 1977, shall--~~be~~ is determined in
accordance with paragraph A.

44 **Sec. 25. 5 MRSA §18453, sub-§5, ¶B**, as enacted by PL 1985, c.
801, §§5 and 7, is amended to read:

46 B. If ~~his~~ the member's benefit would be greater, the part
48 of ~~his~~ the service retirement benefit based upon membership
50 service before July 1, 1977, shall-~~be~~ is determined, on a
pro rata basis, on ~~his~~ the member's current annual-salary-~~on~~

2 ~~the date of retirement~~ final compensation and the part of
3 his the service retirement benefit based upon membership
4 service after June 30, 1977, shall--be is determined in
5 accordance with paragraph A.

6 **Sec. 26. 5 MRSA §18453, sub-§7, ¶B,** as enacted by PL 1985, c.
7 801, §§5 and 7, is amended to read:

8 B. If his the member's benefit would be greater, the part
9 of his the service retirement benefit based upon membership
10 service before July 1, 1977, shall--be is determined, on a
11 pro rata basis, on his the member's current annual-salary-on
12 ~~the date of retirement~~ final compensation and the part of
13 his the service retirement benefit based upon membership
14 service after June 30, 1977, shall--be is determined in
15 accordance with paragraph A.

16 **Sec. 27. 5 MRSA §18453, sub-§8, ¶B,** as enacted by PL 1985, c.
17 801, §§5 and 7, is amended to read:

18 B. If his the member's benefit would be greater, the part
19 of his the service retirement benefit based upon membership
20 service before July 1, 1977, shall--be is determined, on a
21 pro rata basis, on his the member's current annual-salary-on
22 ~~the date of retirement~~ final compensation and the part of
23 his the service retirement benefit based upon membership
24 service after June 30, 1977, shall--be is determined in
25 accordance with paragraph A.

26 **Sec. 28. 5 MRSA §18527, sub-§4, ¶C,** as enacted by PL 1989, c.
27 409, §§11 and 12, is amended to read:

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

32 **Sec. 29. 5 MRSA §18529, sub-§2, ¶B,** as enacted by PL 1989, c.
33 409, §§11 and 12, is amended to read:

34 B. The executive director may require, once each year, that
35 the person undergo examinations or tests, conducted in
36 accordance with section 18526, to determine the person's
37 disability. The executive director may refer the records
38 documenting the results of the examinations or tests and the
39 person's file to the medical board for a recommendation
40 regarding rehabilitation in accordance with section 17106,
41 subsection 3, paragraph E.

2 (1) After the disability has continued for 2 years,
the disability must render the person unable to engage
4 in any substantially gainful activity which that is
consistent with the person's training, education or
6 experience and average final compensation adjusted by
the same percentage adjustment as has been received
8 under section 18407. The disability retirement benefit
~~shall-continue~~ continues if the person can effectively
10 demonstrate to the executive director that the person
is actively seeking work.

12 (2) If the person refuses to submit to the
examinations or tests under this paragraph, the
14 disability retirement benefit ~~shall-be~~ is discontinued
until that person withdraws the refusal.

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

20 (4) If it is determined, on the basis of the
22 examinations or tests under this paragraph, that the
disability of a person no longer exists, the payment of
24 the disability retirement benefit ~~shall-cess~~ ceases.

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

30 (a) The decision ~~shall-be~~ is subject to appeal
under section 17451.

32 (b) If the person appeals the executive
34 director's decision, the disability retirement
allowance shall may not be discontinued until all
36 administrative appeals have been exhausted.

38 **Sec. 30. 5 MRSA §18531, sub-§2, ¶B,** as enacted by PL 1989, c.
40 409, §§11 and 12, is amended to read:

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

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

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

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

10 **Sec. 31. 5 MRSA §18656, sub-§3, ¶C**, as enacted by PL 1985, c.
801, §§5 and 7, is amended to read:

12 C. The number of dependents may not ~~effect~~ affect the
14 premium rate for insurance purchased under this subsection.

16 STATEMENT OF FACT

18 This bill makes the following changes to the laws governing
20 the Maine State Retirement System.

22 1. It adds a new provision to the retirement system laws to
24 require that the employer retirement costs relating to salaries
paid to teachers from grants received by school administrative
26 units be paid from those funds rather than being paid by the
State as part of the regular employer retirement costs for
28 teachers.

30 2. It restores a provision relating to the purchase of
service credits for teaching in private or parochial schools that
32 was unintentionally removed when the section was amended during
the last legislative session.

34 3. It repeals provisions that direct the use of tables of
annuities in calculating reductions for early retirement. They
36 are inconsistent with the immediately preceding provisions in the
statutes, which set the reduction at 6%, obviating any need for
38 annuity tables.

40 4. It amends special plan provisions for state police
officers and law enforcement officers in the Department of Inland
42 and Fisheries and the Department of Marine Resources to include
in the definition of surviving spouse a person married to a
44 retiree who was unmarried at the time of retirement and married
thereafter.

46 5. It corrects errors made in recodifying the laws
48 governing the Maine State Retirement System in the 112th
Legislative Session. The recodification overlooked the
50 requirements of Public Law 1975, chapter 622, as to the

2 calculation of special plan benefits. The changes conform the
laws to Maine State Retirement System practice and correct
4 inconsistencies in terminology.

6 6. It corrects a grammatical error.

8 7. It corrects an error in terminology in the Maine Revised
Statutes, Title 5, section 18303 by changing a reference to
10 "school administrative unit" to a "participating local district."

12 8. It adds a section that appears to have been omitted from
the participating local district provisions when the laws
14 governing the Maine State Retirement System were recodified
during the 112th Legislative Session.

16 9. It clarifies the definition of the term "actuarial
equivalent."

18 10. It extends from 37 to 60 days the maximum time for the
20 Maine State Retirement System to pay refunds of contributions to
former members of the judicial, legislative and state retirement
22 systems. This change is made necessary by new federal tax
regulations that require notification to former members before
24 refunds are made.

26 11. It provides that in any case when a recipient of a
disability retirement benefit under Title 5, chapter 423, article
28 3-A or chapter 425, article 3-A appeals the decision of the
Executive Director of the Maine State Retirement System to
30 discontinue that benefit, the discontinuance will be held in
abeyance only until the exhaustion of all administrative appeals.