

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

R 98

L.D. 1458

DATE: 3/22/94

(Filing No. S- 475)

**AGING, RETIREMENT & VETERANS**

Reported by: Senator McCormick of Kennebec

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
116TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 466, L.D. 1458, Bill, "An Act to Clarify the Role and Purpose of the Maine State Retirement System"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

Sec. 1. 4 MRSA §1353, sub-§2, as amended by PL 1991, c. 887, §2, is further amended to read:

2. Amount. Until July 1, 1994 ~~1996~~, the amount of a disability retirement allowance is 59% of the member's average final compensation. Any member entitled to this benefit who was serving as a judge on November 30, 1984 may elect to have that member's disability benefits calculated in accordance with chapter 29, instead of this subsection. A member who is serving as a judge on October 16, 1992 may elect to be covered under the disability benefit plan applicable to the judge as that plan is amended to meet the requirements of the federal Older Workers Benefit Protection Act. The election must be made by the same procedure provided in Title 5, section 17941 for state employees.

Sec. 2. 4 MRSA §1358, sub-§1, ¶C, as amended by PL 1993, c. 410, Pt. L, §8-A, is further amended to read:

C. Adjustments under this section must be applied to the allowances of all retirees who have been retired for at least 12 months before the adjustment takes effect, except that a member who has less than 10 years of creditable service on July 1, 1993 may not receive a cost-of-living adjustment until at least 12 months after reaching normal

**COMMITTEE AMENDMENT**

R 9/8

COMMITTEE AMENDMENT "A" to S.P. 466, L.D. 1458

2 retirement age. Beneficiaries of deceased retirees and  
3 members are eligible for the adjustment provided in this  
4 section at the same time the deceased retiree or member  
5 would have been eligible. A member who is eligible to  
6 retire as of June 30, 1993 and who actually retires  
7 effective no later than July 1, 1994 is eligible for the  
8 cost-of-living adjustment if that member has been retired  
9 for at least 6 months before the date that the adjustment  
10 becomes payable.

11 **Sec. 3. 5 MRSA §17001, sub-§13, ¶C,** as repealed and replaced  
12 by PL 1993, c. 410, Pt. L, §13, is amended to read:

13 C. Earnable Notwithstanding the other provisions of this  
14 subsection, for the purposes of determining average final  
15 compensation, earnable compensation does not include any  
16 increase that exceeds the prior year's earnable compensation  
17 by more than 5% or that results in a total increase of more  
18 than 10% during the 3-year period used in the calculation of  
19 average final compensation unless the cost of the additional  
20 actuarial liability arising from the excess increase is paid  
21 by the employer as provided in section 17154. Any payment  
22 made under paragraph B, subparagraph (1) must be included in  
23 determining the amount of increase in the year in which the  
24 payment is made. This paragraph does not apply to excess  
25 increases resulting from compensation paid prior to July 1,  
26 1993, from compensation paid in accordance with an  
27 individual employment contract or collective bargaining  
28 agreement executed prior to July 1, 1993 for the initial  
29 term of that contract or agreement or from other action by  
30 the governing body of the school administrative unit in  
31 effect on July 1, 1993. In addition, this paragraph does  
32 not apply to increases in compensation for state employees  
33 received during fiscal years year 1993-94 and fiscal year  
34 1994-95. In all circumstances in which this paragraph does  
35 not apply, the provisions of this paragraph that were in  
36 effect prior to June 30, 1993 apply.

37 **Sec. 4. 5 MRSA §17103, sub-§9, ¶B,** as enacted by PL 1985, c.  
38 801, §§5 and 7, is amended to read:

39 B. The When determined necessary by the retirement system  
40 or directed by the legislative committee or a member of that  
41 committee, the report shall--also on each amendment must  
42 include a separate evaluation of--each--amendment by the  
43 actuary.

44 **Sec. 5. 5 MRSA §17154, sub-§9,** as enacted by PL 1991, c. 857,  
45 §1, is amended to read:

50

R. O. S.

2 9. **Improper application of statutes.** Notwithstanding the  
4 other provisions of this section, additional actuarial and  
6 administrative costs resulting from omissions or  
8 misrepresentations by an employer as to a member's earnings,  
10 service or service credits or from improper application of  
12 retirement system statutes or rules regarding earnings, service  
14 or service credits must be charged to and paid by the employer  
16 that omitted information, provided misinformation or improperly  
18 applied the statutes or rules, unless the omission,  
misrepresentation or improper application results from erroneous  
information provided by the retirement system. The employer is  
liable for amounts not recovered from the retiree and for costs  
incurred by the retirement system in resolving problems caused by  
the employer's actions and in addition may be subject to  
administrative fees, penalties and interest under section 17105,  
subsection 5. For purposes of this subsection, "employer" means  
any department of State Government, school administrative unit or  
participating local district.

20 **Sec. 6. 5 MRSA §17806, sub-§3,** as amended by PL 1993, c. 410,  
Pt. L, §31, is further amended to read:

22 **3. Eligibility.** Cost-of-living adjustments under this  
24 section must be applied to the retirement benefits of all  
26 retirees who have been retired for at least 12 months before the  
28 date that the adjustment becomes payable, except that a member  
30 who has less than 10 years of creditable service on July 1, 1993  
32 may not receive a cost-of-living adjustment until at least 12  
34 months after reaching normal retirement age. Beneficiaries of  
36 deceased retirees and members are eligible for the cost-of-living  
adjustment at the same time the deceased retiree or member would  
have become eligible. A member who is eligible to retire as of  
June 30, 1993 and who actually retires effective no later than  
July 1, 1994 is eligible for the cost-of-living adjustment if  
that member has been retired for at least 6 months before the  
date that the adjustment becomes payable.

38 **Sec. 7. 5 MRSA §17905,** as amended by PL 1991, c. 887, §5, is  
40 further amended to read:

42 **§17905. Computation of benefit**

44 Until July 1, 1994 1996, when a member qualified under  
46 section 17904 retires, the member is entitled to receive a  
disability retirement benefit equal to 59% of the member's  
average final compensation.

48 **Sec. 8. 5 MRSA §17928,** as amended by PL 1991, c. 887, §8, is  
50 further amended to read:

**§17928. Computation of benefit**

2  
4 Until July 1, 1994 1996, when a member qualified under  
6 section 17924 retires, after approval for disability retirement  
8 by the executive director in accordance with section 17925, the  
member is entitled to receive a disability retirement benefit  
equal to 59% of that member's average final compensation.

10 **Sec. 9. 5 MRSA §18005, sub-§3** is enacted to read:

12 3. Cost-of-living adjustments. Benefits under this article  
are subject to adjustment as provided in section 17806.

14 **Sec. 10. 5 MRSA §18407, sub-§6**, as enacted by PL 1985, c. 801,  
16 §§5 and 7, is amended to read:

18 **6. Eligibility.** Cost-of-living adjustments under this  
20 section shall must be applied to the retirement benefits of all  
22 retirees who have been retired for at least 6 months before the  
date that the adjustment becomes payable. Beneficiaries of  
deceased retirees shall--be and members are eligible for the  
cost-of-living adjustment at the same time the deceased retiree  
would have become eligible.

24 **Sec. 11. 5 MRSA §18505**, as amended by PL 1991, c. 887, §13,  
26 is further amended to read:

28 **§18505. Computation of benefit**

30 Until July 1, 1994 1996, when a member qualified under  
32 section 18504 retires, the member is entitled to receive a  
disability retirement benefit equal to 59% of the member's  
average final compensation.

34 **Sec. 12. 5 MRSA §18528**, as amended by PL 1991, c. 887, §16,  
36 is further amended to read:

38 **§18528. Computation of benefit**

40 Until July 1, 1994 1996, when a member qualified under  
42 section 18524 retires, after approval for disability retirement  
44 by the executive director in accordance with section 18525, the  
member is entitled to receive a disability retirement benefit  
equal to 59% of that member's average final compensation.

46 **Sec. 13. 5 MRSA §18542, sub-§§2 and 3**, as enacted by PL 1991,  
48 c. 887, §19, are amended to read:

50 **2. Ordinary disability allowance.** In the case of ordinary  
disability under such a plan, the disability retirement allowance

R 878

2 must be calculated as provided under the plan except that until  
3 July 1, ~~1994~~ 1996 the amount of the retirement allowance may not  
4 exceed 59% of the member's average final compensation at the time  
of disability retirement; and

6 3. Occupational disability allowance. In the case of  
7 occupational disability under such a plan, the disability  
8 retirement allowance is, until July 1, 1994 ~~1996~~, equal to 59% of  
9 the member's average final compensation at the time of disability  
10 retirement.

12 Sec. 14. 5 MRSA §18605, sub-§3 is enacted to read:

14 3. Cost-of-living adjustments. Benefits under this article  
15 are subject to adjustment as provided in section 17806.

16 Sec. 15. Study and report. The Maine State Retirement System  
17 shall study and analyze the experience of the disability plans  
18 amended to meet the requirements of the federal Older Workers  
19 Benefit Protection Act. The retirement system shall submit by  
20 January 15, 1996 a report to the Governor, the joint standing  
21 committee of the Legislature having jurisdiction over aging,  
22 retirement and veterans matters, the members of the Legislative  
23 Council and the Executive Director of the Legislative Council.  
24 The report must compare actual experience under the plans with  
25 actuarial assumptions regarding elections and costs of benefits  
26 under the new options elected. The report must also identify  
27 possible options for compliance with the federal Older Workers  
28 Benefit Protection Act that protect benefits for employees  
29 without additional cost to the State and participating local  
30 districts.

32 Sec. 16. Retroactivity. That part of this Act that amends the  
33 Maine Revised Statutes, Title 5, section 17001, subsection 13,  
34 paragraph C applies retroactively to July 1, 1993.'

36 Further amend the bill by adding at the end before the  
37 statement of fact the following:

40 FISCAL NOTE

42 The Maine State Retirement System will realize some minor  
43 savings from provisions that clarify when actuarial analyses will  
44 be required.

46 The system will incur some minor additional costs to  
47 continue their study and analysis of the disability plans amended  
48 to meet the requirements of the federal Older Workers Benefit  
49 Protection Act. These costs can be absorbed within the system's  
50 existing budgeted resources.'

206

2

STATEMENT OF FACT

4

6 This amendment removes all of the original bill except for 2  
8 sections. Section 3 of the original bill is amended to require  
10 the Maine State Retirement System to obtain an actuarial analysis  
12 of proposed legislation upon the direction of the committee of  
14 jurisdiction or a member of that committee. The amendment also  
16 extends the period during which the benefit level under the new  
18 disability plan will remain at 59% for 2 more years and requires  
the Maine State Retirement System to continue to analyze the  
experience under the plan. The application of various  
cost-of-living provisions is clarified and the former cap on  
earnable compensation will be applied in any instances where the  
recently enacted cap does not apply. The application of the  
former cap in these instances is retroactive to July 1, 1993.  
The amendment also adds a fiscal note to the bill.