

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1520

H.P. 1078

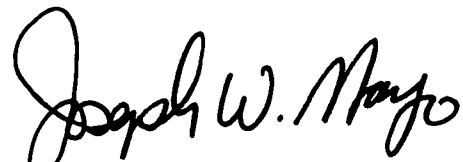
House of Representatives, May 11, 1995

An Act to Amend the Earnings Limitations under the Disability Plan.

(AFTER DEADLINE)

(EMERGENCY)

Approved by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Labor suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative JACQUES of Waterville.
Cosponsored by Senator HANLEY of Oxford and
Representatives: GUERRETTE of Pittston, GWADOSKY of Fairfield, JOSEPH of
Waterville, KERR of Old Orchard Beach, MADORE of Augusta, MITCHELL of Vassalboro,
PINKHAM of Lamoine, POULIN of Oakland, SAMSON of Jay, Senators: CAREY of
Kennebec, HALL of Piscataquis, PARADIS of Aroostook.

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

4
6 **Whereas,** the enactment of Maine State Retirement System
Rule, Chapter 508 became effective on March 22, 1994; and

8 **Whereas,** the enactment of this rule was necessary to bring
the administration of the "Section 1122" disability plan into
10 compliance with the governing law; and

12 **Whereas,** the law and rule create hardship for many "Section
1122" disability recipients by severely limiting the amount of
14 money these disability recipients can earn without a reduction in
their disability retirement benefits; and

16 **Whereas,** other disability plans administered by the Maine
18 State Retirement System by law have more generous earnings
limitations than the "Section 1122" disability plan; and

20 **Whereas,** enactment of this Act will amend the Maine State
22 Retirement System laws to provide similar earnings limitations in
all disability plans; and

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

30
32 **Be it enacted by the People of the State of Maine as follows:**

34 **Sec. 1. Review for capacity to engage in gainful occupation.** If the
executive director of the Maine State Retirement System, when
36 determining the retirement allowance for a person who has been
awarded and continues to receive disability benefits under the
Maine Revised Statutes, Title 5, former section 1122 and for a
38 participating local district that did not adopt the disability
retirement plans established by Public Law 1989, chapter 409 or
40 Public Law 1975, chapter 622, finds that a disability beneficiary
is engaged in or is able to engage in a gainful occupation paying
42 more than the difference between the disability beneficiary's
retirement allowance and the disability beneficiary's average
44 final compensation at retirement, then the disability
beneficiary's allowance must be reduced to an amount that,
46 together with the amount earnable by the disability beneficiary,
equals the disability beneficiary's average final compensation at
48 retirement. If the executive director finds that the disability
beneficiary's earning capacity is later changed, then the
50 executive director may modify the disability

2 beneficiary's retirement allowance. The modified retirement
allowance may not exceed the amount of the retirement allowance
4 originally granted. For the purpose of this section, "retirement
allowance" means the allowance payable without optional
6 modification as provided in Title 5, section 17803 or section
18404.

8 **Sec. 2. Review for annual earnings.** The Maine State Retirement
System shall review the annual earnings of a person who is the
10 recipient of disability retirement benefits who receives
compensation in any year from engaging in a gainful activity. If
12 the Maine State Retirement System finds that the compensation
exceeds the greater of \$10,000 or the difference between the
14 recipient's disability retirement benefit for that year and the
recipient's average final compensation at the time that the
16 person became a recipient of a disability retirement benefit,
then the retirement system must:

18 1. Reduce the disability or service retirement benefits by
20 the excess for the next calendar year; and

22 2. Prorate the reduction on a monthly basis in an equitable
manner prescribed by the Board of Trustees of the Maine State
24 Retirement System over the year or part of the year during which
the benefits are received.

26 The beneficiary shall reimburse the Maine State Retirement
28 System for any excess not deducted by the retirement system.

30 **Sec. 3. Methodology.** The Maine State Retirement System is
directed to devise a proposed methodology and plan that would
32 consolidate the Section 1122, Article 3 and Article 3-A
disability plans currently administered by the Maine State
34 Retirement System into a single pooled plan modeled after the
Article 3-A plan. The proposed plan must include transition
36 provisions for participating local districts that have not yet
adopted Article 3 or Article 3-A disability plans. This new
38 methodology and unified plan must be presented to the joint
standing committee of the Legislature having jurisdiction over
40 labor matters before adjournment of the 2nd Regular Session of
the 117th Legislature and must contain proposed legislation to
42 accomplish the consolidation of the 3 disability plans into one
pooled plan.

44 **Emergency clause.** In view of the emergency cited in the
46 preamble, this Act takes effect when approved.

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STATEMENT OF FACT

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4 This bill reinstates an earnings limitation of the greater
6 of \$10,000 or the difference between average final compensation
8 and the disability retirement benefit for beneficiaries who
10 qualify under the Maine Revised Statutes, Title 5, former section
12 1122. The bill also clarifies that an earnings capacity review
14 by the executive director is in addition to the annual earnings
16 review that will now more closely conform to the annual earnings
 review in the other 2 disability plans administered by the Maine
 State Retirement System.

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14 The bill also directs the Maine State Retirement System to
16 propose a plan to the Legislature that would merge the 3
 different disability plans currently in effect into a single plan
 modeled after the Article 3-A disability plan.