

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

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Legislative Document

No. 1797

H.P. 1271

House of Representatives, April 15, 1997

**An Act to Amend the Provisions of the Disability Retirement Laws  
Administered by the Maine State Retirement System.**

(EMERGENCY)

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Submitted by the Maine State Retirement System pursuant to Joint Rule 204.  
Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.

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

Whereas, amendments were made to the Maine State Retirement System disability laws in earlier years for the purpose of compliance with the federal Older Workers Benefit Protection Act; and

Whereas, the way in which the amendments were enacted makes it very difficult for persons who did not elect to move to the Maine State Retirement System's "no-age" disability plan to know the requirements and terms of the disability plan under which they continue to be covered; and

Whereas, other amendments to the Maine State Retirement System disability laws made for the same purpose were not made to all of the affected sections of the law, such that inconsistencies now exist; and

Whereas, certain inconsistencies in the disability laws related to Legislators and judges also exist; and

Whereas, immediate enactment of legislation is necessary to clarify application of disability laws and to resolve inconsistencies in those laws; and

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

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

**Sec. 1. 4 MRSA §1353, sub-§1-A, ¶B,** as enacted by PL 1983, c. 863, Pt. B, §§26 and 45, is repealed.

**Sec. 2. 4 MRSA §1353, sub-§2,** as amended by PL 1995, c. 643, §3, is further amended to read:

2. Amount. Until--July--1,--1996 When a member qualified under subsection 1 and, if applicable, subsection 1-A, paragraph A, retires, the amount of a disability retirement allowance is 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under Title 5, section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years after that time. The review that takes place every 6 years must compare actual experience

under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered under subsection 1 as written prior to its amendment by Public Law 1991, chapter 887, section 1 may receive a disability retirement allowance when, in addition to meeting the requirements of subsection 1, the member has not completed the eligibility requirements for retirement under section 1351, subsection 1, 1-A or 2. When such a member is entitled to receive a disability retirement allowance, the amount of the allowance is 66 2/3% of the member's average final compensation.

**Sec. 3. 4 MRSA §1353, sub-§7, ¶A,** as amended by PL 1991, c. 887, §3, is further amended to read:

A. The disability retirement allowance of a beneficiary must cease whenever the service retirement allowance of the beneficiary would equal or exceed the amount of the member's disability retirement allowance. For a member who by election or by having retired on disability retirement prior to October 16, 1992 remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 3, the disability retirement allowance must cease at age 70, or prior to that age, whenever the service retirement allowance would equal or exceed the amount of the disability retirement allowance.

**Sec. 4. 5 MRSA §17904, sub-§1,** as amended by PL 1991, c. 887, §4, is further amended to read:

**1. Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and before reaching normal retirement age.

**Sec. 5. 5 MRSA §17905,** as amended by PL 1995, c. 643, §6, is repealed and the following enacted in its place:

**§17905. Computation of benefit**

When a member qualified under section 17904 retires, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

2        **Sec. 6. 5 MRSA §17907, sub-§2, ¶A,** as amended by PL 1991, c.  
3        887, §6, is repealed and the following enacted in its place:

4        A. The disability retirement benefit ceases and eligibility  
5        for a service retirement benefit begins:

6                (1) On the last day of the month in which the 10th  
7                anniversary of the beneficiary's normal retirement age,  
8                as defined in section 17001, subsection 23, occurs; or

9                (2) On the last day of the month in which the service  
10               retirement benefit of the beneficiary would equal or  
11               exceed the amount of the beneficiary's disability  
12               retirement benefit, if that occurs before the 10th  
13               anniversary of the beneficiary's normal retirement age.

14        **Sec. 7. 5 MRSA §17924, sub-§1,** as amended by PL 1991, c. 887,  
15        §7, is further amended to read:

16                1. **Qualification.** Except as provided in subsection 2, a  
17                member qualifies for a disability retirement benefit if disabled  
18                while in service and, for a member who by election remains  
19                covered under this section as written prior to its amendment by  
20                Public Law 1991, chapter 887, section 7, before normal retirement  
21                age.

22        **Sec. 8. 5 MRSA §17928,** as amended by PL 1995, c. 643, §14, is  
23        further amended to read:

24        **§17928. Computation of benefit**

25                When Until July 1, 1996, when a member qualified under  
26                section 17924 retires, after approval for disability retirement  
27                by the executive director in accordance with section 17925, the  
28                member is entitled to receive a disability retirement benefit  
29                equal to 59% of that member's average final compensation. The  
30                59% level must be reviewed for cost-neutral comparability as a  
31                part of the actuarial investigation provided under section 17107,  
32                subsection 2, paragraph E, beginning with the investigation made  
33                January 1, 1997 and every 6 years thereafter. The review that  
34                takes place every 6 years must compare actual experience under  
35                the disability plans with actuarial assumptions regarding  
36                election and costs of benefits under the new options elected and  
37                identify possible options for compliance with the federal Older  
38                Workers Benefit Protection Act that protect benefits for  
39                employees without additional cost to the State and participating  
40                local districts.

41                A member who by election remains covered, as to  
42                qualification for benefits, under section 17924 as written prior  
43                to July 1, 1996, shall be treated as if the member had been  
44                covered under the provisions of section 17924 as written prior  
45                to July 1, 1996.

to its amendment by Public Law 1991, chapter 887, section 7, qualifies for a disability retirement benefit on meeting the requirements of section 17924, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

**Sec. 9. 5 MRSA §17929, sub-§2, ¶A-1** is enacted to read:

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 9, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) When the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age.

**Sec. 10. 5 MRSA §18504, sub-§1**, as amended by PL 1991, c. 887, §12, is further amended to read:

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 12, before normal retirement age.

**Sec. 11. 5 MRSA §18505**, as amended by PL 1995, c. 643, §18, is further amended by adding at the end a new paragraph to read:

A member who by election remains covered, as to qualification for benefits, under section 18504 as written prior to its amendment by Public Law 1991, chapter 887, section 12, qualifies for a disability retirement benefit on meeting the requirements of section 18504, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

2       **Sec. 12. 5 MRSA §18507, sub-§2, ¶A,** as amended by PL 1991, c.  
887, §14, is further amended to read:

4       A. A disability retirement benefit ceases and eligibility  
6       for a service retirement benefit begins on the last day of  
the month in which the service retirement benefit of the  
8       beneficiary equals or exceeds the amount of the member's  
disability retirement benefit. For a member who by election  
10       or by having retired on disability retirement prior to  
October 16, 1992, remains covered under this section as  
12       written prior to its amendment by Public Law 1991, chapter  
887, section 14, the disability retirement benefit ceases:

14               (1) On the last day of the month in which the 10th  
16               anniversary of the beneficiary's normal retirement age,  
as defined in section 17001, subsection 23, occurs; or

18               (2) On the last day of the month in which the service  
20               retirement benefit of the beneficiary would equal or  
exceed the amount of the disability retirement benefit,  
22               if that occurs before the 10th anniversary of the  
beneficiary's normal retirement age.

24       **Sec. 13. 5 MRSA §18524, sub-§1,** as amended by PL 1991, c. 887,  
§15, is further amended to read:

26               1. **Qualification.** Except as provided in subsection 2, a  
28       member qualifies for a disability retirement benefit if disabled  
while in service and, for a member who by election remains  
30       covered under this section as written prior to its amendment by  
Public Law 1991, chapter 887, section 15, before normal  
32       retirement age.

34       **Sec. 14. 5 MRSA §18528,** as amended by PL 1995, c. 643, §26,  
is further amended by adding at the end a new paragraph to read:

36               A member who by election remains covered, as to  
38       qualification for benefits, under section 18524 as written prior  
to its amendment by Public Law 1991, chapter 887, section 15,  
40       qualifies for a disability retirement benefit on meeting the  
requirements of section 18524, subsection 1, paragraphs C and D.  
42       When a member so qualified retires after approval for disability  
retirement by the executive director in accordance with this  
44       Article, the member is entitled to receive a disability  
retirement benefit equal to 66 2/3% of the member's average final  
46       compensation.

48       **Sec. 15. 5 MRSA §18529, sub-§2, ¶A-1** is enacted to read:

2       A-1. For a person who by election or by having retired on  
4       disability retirement prior to October 16, 1992, remains  
6       covered under this section as written prior to its amendment  
8       by Public Law 1991, chapter 887, section 17, the disability  
10       retirement benefit ceases:

12               (1) On the 10th anniversary of that person's normal  
14               retirement age, as defined in section 17001, subsection  
16               23; or

18               (2) When the service retirement benefit of that person  
20               equals or exceeds the amount of the disability  
22               retirement benefit, if that occurs before the  
24               beneficiary's normal retirement age.

26       **Sec. 16. Actuarial report; implementation.** Results of the  
28       actuarial investigation required in that section of this Act that  
30       amends the Maine Revised Statutes, Title 4, section 1353,  
32       subsection 2, must be submitted by January 1, 1997, or as soon as  
34       possible after that time. Reports of subsequent investigations  
36       must be submitted at 6-year intervals following January 1, 1997.

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

## 42                               SUMMARY

44       This bill repeals the requirement for members of the  
46       Judicial Retirement System to file statements of health.  
48       Legislation enacted in 1996, Public Law 1995, chapter 643,  
50       sections 7, 8, 19 and 20 repealed the requirement that state  
52       employees, Legislators and participating local district employees  
54       file statements of health at the time of employment as the  
56       statements are no longer used by the Maine State Retirement  
58       System.

60       This bill clarifies and makes consistent various disability  
62       retirement provisions of current law.

64       This bill also reenacts language that, for the reason of  
66       clarity, should not have been deleted by amendments enacted by  
68       Public Law 1991, chapter 887.