

# MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 94, L.D. 98, Bill, "An Act to Increase the Limit on Earnings for Beneficiaries of Disability Retirement Benefits"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

Whereas, the earnings limit for disability benefit recipients under the Maine State Retirement System that triggers a recovery of over earnings from disability recipients has not been adjusted for inflation since it was established in 1981; and

Whereas, the imposition of that limit imposes a hardship on many recipients of disability benefits under the retirement system; and

Whereas, the review for capacity to engage in substantially gainful occupation based on actual earnings under the so-called "section 1122 disability plan" imposes a hardship on many disability benefit recipients under that plan; 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,

COMMITTEE AMENDMENT

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

2  
4       **Sec. 1. 5 MRSA §17906, sub-§1**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

6       **1. Excess compensation.** ~~If, in any year,~~ the compensation  
8 received from engaging in any gainful occupation by a beneficiary  
10 of a disability retirement benefit exceeds ~~\$10,000~~ \$20,000 in  
12 calendar year 2000 or in any subsequent calendar year exceeds  
that amount as cumulatively increased or decreased by the same  
percentage adjustments granted under section 17806, subsection 1,  
paragraphs A and B:

14       A. The excess shall ~~be~~ must be deducted from the disability or  
16 service retirement benefits during the next calendar year,  
18 the deductions to be prorated on a monthly basis in an  
equitable manner prescribed by the board over the year or  
part of the year for which the benefits are received; and

20       B. The beneficiary shall reimburse the retirement system  
22 for any excess payments not deducted under paragraph A.

24       **Sec. 2. 5 MRSA §17930, sub-§2**, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

26       **2. Compensation from employment not covered by this**  
28 **article.** If any person who is the recipient of a disability  
retirement benefit receives compensation in any year from  
engaging in any gainful activity or from employment with an  
employer whose employees are not covered by this article or  
chapter 425, subchapter V, article 3-A, which exceeds the greater  
32 of ~~\$10,000~~ \$20,000 in calendar year 2000 or in any subsequent  
year that amount as cumulatively increased or decreased by the  
34 same percentage adjustments granted under section 17806,  
subsection 1, paragraphs A and B, or the difference between the  
36 person's disability retirement benefit for that year and the  
person's average final compensation at the time that the person  
38 became a recipient of a disability retirement benefit, increased  
or decreased by the same percentage adjustments as have been  
40 granted by section 17806:

42       A. The excess shall ~~be~~ must be deducted from the disability or  
44 service retirement benefits during the next calendar year;  
the deductions to be prorated on a monthly basis in an  
equitable manner prescribed by the board over the year or  
46 part of the year for which the benefits are received;

48       B. The person shall reimburse the retirement system for any  
50 excess payments not deducted under paragraph A. If the  
retirement benefit payments are eliminated by this

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2 subsection, the disability shall ~~be~~ is deemed to no longer  
3 exist, the payment of the disability retirement benefit  
4 shall must be discontinued and, except as provided in  
5 paragraph C, all of the person's rights to benefits under  
6 this article shall cease;

8 C. If, during the first 5 years of reemployment, the person  
9 again becomes disabled, terminates employment and is not  
10 covered by any other disability program, the retirement  
11 system shall resume paying the disability retirement benefit  
12 payable prior to the reemployment with all applicable  
13 cost-of-living adjustments and shall provide rehabilitation  
14 services under section 17927 if recommended by the medical  
15 board. If the benefit payable under the other disability  
16 program is not equal to or greater than the benefit under  
17 this article, the retirement system shall pay the difference  
18 between the amount of the benefit payable under the other  
19 disability program and the amount of the benefit payable  
20 under this article. The executive director shall require  
21 examinations or tests to determine whether the person is  
22 disabled as described in section 17921; and

24 D. At any time before the elimination of disability  
25 retirement benefit payments by this subsection, the person  
26 may request that benefit payments be terminated and the  
27 executive director shall terminate benefit payments at the  
28 end of the month in which the request is received.

30 **Sec. 3. 5 MRSA §18506, sub-§1**, as enacted by PL 1985, c. 801,  
§§5 and 7, is amended to read:

32 1. **Excess compensation.** ~~If, in any year,~~ the compensation  
33 received from engaging in any gainful occupation by a beneficiary  
34 of a disability retirement benefit exceeds ~~\$10,000~~ \$20,000 in  
35 calendar year 2000 or in any subsequent calendar year exceeds  
36 that amount cumulatively increased or decreased by the same  
37 percentage adjustments granted under section 18407, subsection 4:

38 A. The excess shall must be deducted from the disability or  
39 service retirement benefits during the next calendar year,  
40 the deductions to be prorated on a monthly basis in an  
41 equitable manner prescribed by the board over the year or  
42 part of the year for which the benefits are received; and

44 B. The beneficiary shall reimburse the retirement system  
45 for any excess payments not deducted under paragraph A.

48 **Sec. 4. 5 MRSA §18530, sub-§2**, as enacted by PL 1989, c. 409,  
50 §§11 and 12, is amended to read:

2           **2. Compensation from employment not covered by this**  
3 **article.** If any person who is the recipient of a disability  
4 retirement benefit receives compensation in any year from  
5 engaging in any gainful activity or from employment with an  
6 employer whose employees are not covered by this article or  
7 chapter 423, subchapter V, article 3-A, which exceeds \$10,000  
8 \$20,000, increased or decreased by the same percentage  
9 adjustments as are granted under section 18407, subsection 4, or  
10 the difference between the person's disability retirement benefit  
11 for that year and the person's average final compensation at the  
12 time that the person became a recipient of a disability  
13 retirement benefit, increased or decreased by the same percentage  
14 adjustments as have been granted by section 18407, whichever is  
greater:

16           A. The excess shall must be deducted from the disability or  
17 service retirement benefits during the next calendar year;  
18 the deductions to be prorated on a monthly basis in an  
19 equitable manner prescribed by the board over the year or  
20 part of the year for which the benefits are received;

22           B. The person shall reimburse the retirement system for any  
23 excess payments not deducted under paragraph A. If the  
24 retirement benefit payments are eliminated by this  
25 subsection, the disability shall ~~be~~ is deemed to no longer  
26 exist, the payment of the disability retirement benefit  
27 shall must be discontinued and, except as provided in  
28 paragraph C, all of the person's rights to benefits under  
this article shall cease;

30           C. If, during the first 5 years of reemployment, the person  
31 again becomes disabled, terminates employment and is not  
32 covered by any other disability program, the retirement  
33 system shall resume paying the disability retirement benefit  
34 payable prior to the reemployment with all applicable  
35 cost-of-living adjustments and shall provide rehabilitation  
36 services under section 18527 if recommended by the medical  
37 board. If the benefit payable under the other disability  
38 program is not equal to or greater than the benefit under  
39 this article, the retirement system shall pay the difference  
40 between the amount of the benefit payable under the other  
41 disability program and the amount of the benefit payable  
42 under this article. The executive director shall require  
43 examinations or tests to determine whether the person is  
44 disabled as described in section 18521; and

46           D. At any time before the elimination of disability  
47 retirement benefit payments by this subsection, the person  
48 may request that benefit payments be terminated and the

2 executive director shall terminate benefit payments at the  
end of the month in which the request is received.

4 **Sec. 5. P&SL 1995, c. 38, §2, first ¶** is amended to read:

6 **Sec. 2. Review for annual earnings.** The Maine State Retirement  
System shall review the annual earnings of a person who is the  
8 recipient of disability retirement benefits who receives  
compensation in any year from engaging in a gainful activity. If  
10 the Maine State Retirement System finds that the compensation  
exceeds the greater of \$10,000 \$20,000 in calendar year 2000 or  
12 in any subsequent year that amount as cumulatively increased or  
decreased by the same percentage adjustments granted under the  
14 Maine Revised Statutes, Title 5, section 17806, subsection 1,  
paragraphs A and B or section 18407, subsection 4 or the  
16 difference between the recipient's disability retirement benefit  
for that year and the recipient's average final compensation at  
18 the time that the person became a recipient of a disability  
retirement benefit that is cumulatively increased or decreased by  
20 the same percentage adjustments granted under Title 5, section  
17806, subsection 1, paragraphs A and B or section 18407,  
22 subsection 4, then the retirement system must:

24 **Sec. 6. Restoration of benefit reductions.** The Maine State  
Retirement System shall suspend implementation of Private and  
26 Special Law 1995, chapter 38, section 1 until January 1, 2003 and  
shall reverse any permanent disability benefit reductions  
28 pursuant to that section that have occurred as a result of a  
benefit recipient's actual earnings in calendar years 1999 and  
30 2000.

32 **Sec. 7. Effective date.** This Act applies retroactively to  
January 1, 2001.

34 **Emergency clause.** In view of the emergency cited in the  
36 preamble, this Act takes effect when approved.'

38 Further amend the bill by inserting at the end before the  
summary the following:

42 **FISCAL NOTE**

44 This bill as amended would further increase the earnings  
limitation of retirement disability benefit recipients from  
46 \$10,000 to \$20,000 per year. Allowing for this higher earnings  
limitation will ultimately reduce the total assets of the Maine  
48 State Retirement System by whatever amount would have been  
recouped with the lower earnings limitation in place. The amount  
50 of the asset reduction can not be determined at this time;

2 however, a reduced amount will ultimately be reflected in the  
ongoing normal cost component of the employer retirement rate,  
4 resulting in increased employer contributions to the Maine State  
Retirement System for state employees and teachers.

6 The bill as amended also reverses any permanent reductions  
to disability retirement benefits for certain recipients based on  
8 earnings in calendar years 1999 and 2000 and suspends further  
implementation of this requirement until January 1, 2003. This  
10 results in the payment of disability benefits that otherwise  
would not have been payable. The impact is that no liabilities  
12 are created, but a reduction of the total assets of the Maine  
State Retirement System would result. The amount of that  
14 reduction in total assets can not be determined but would  
ultimately be reflected in the ongoing normal cost component of  
16 the employer retirement rate, resulting in increased employer  
contributions to the Maine State Retirement System for state  
18 employees and teachers.'

20

**SUMMARY**

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This amendment replaces the bill. It raises from \$10,000 to  
24 \$20,000 the annual limit on earnings that a disability retiree  
under the Maine State Retirement System may earn without causing  
26 a deduction in the following year's benefits. The \$10,000 limit  
was established and has not been updated since 1981. The  
28 amendment also suspends for one of the disability plans  
administered by the retirement system the permanent reduction in  
30 disability benefits due to a determination of increased capacity  
to earn based on a benefit recipient's actual earnings record.  
32 The suspension is retroactive for calendar years 1999 and 2000  
and is effective until January 1, 2003. The temporary suspension  
34 will allow the retirement system and the Legislature to develop a  
permanent solution while alleviating the hardship imposed on  
36 recipients by current law. It also adds an emergency preamble,  
emergency clause and fiscal note to the bill.