

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1814

H.P. 1336

House of Representatives, December 22, 2003

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUDLEY of Portland.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: DUPLESSIE of Westbrook, HATCH of Skowhegan, PARADIS of
Frenchville, Senator: HATCH of Somerset.

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

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4 **Sec. 1. 5 MRSA §17907, sub-§2, ¶B**, as amended by PL 1987, c.
256, §17, is further amended to read:

6 B. After the disability has continued for 5 years, the
7 disability of the beneficiary must render ~~him~~ the
8 beneficiary unable to engage in any substantially gainful
9 activity for which the beneficiary is qualified by training,
10 education or experience. For purposes of this paragraph,
11 the ability to engage in substantially gainful activity is
12 demonstrated by the performance of work resulting in annual
13 earnings that exceed \$20,000 or 80% of the disability
14 retirement benefit of the recipient's average final
15 compensation at retirement, whichever is greater, adjusted
16 by the same percentage adjustments granted under section
17 17806.

18 (1) The executive director may require, once each
19 year, a recipient of a disability retirement benefit to
20 undergo medical examinations or tests, conducted in
21 accordance with section 17903, to determine the
22 disability of the beneficiary.

23 (2) If the beneficiary refuses to submit to the
24 examination or tests under subparagraph (1), ~~his~~ the
25 beneficiary's disability retirement benefit ~~shall be~~ is
26 discontinued until he ~~the beneficiary~~ withdraws the
27 refusal.

28 (3) If the beneficiary's refusal under subparagraph
29 (2) continues for one year, all ~~his~~ the beneficiary's
30 rights to any further benefits under this article ~~shall~~
31 cease.

32 (4) If it is determined, on the basis of the
33 examination or tests under subparagraph (1), that the
34 disability of a beneficiary no longer exists, the
35 payment of ~~his~~ the beneficiary's disability retirement
36 benefit ~~shall cease~~ ceases;

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42 **Sec. 2. 5 MRSA §17929, sub-§2, ¶B**, as amended by PL 1995, c.
643, §15, is further amended to read:

43 B. The executive director may require, once each year, that
44 the person undergo examinations or tests, conducted in
45 accordance with section 17926, to determine the person's
46 disability. The executive director may refer the records
47 documenting the results of the examinations or tests and the
48 person's file to the medical board for medical consultation
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2 regarding rehabilitation in accordance with section 17106,
subsection 3, paragraph E.

4 (1) After the disability has continued for 2 years,
6 the disability must render the person unable to engage
8 in any substantially gainful activity that is
10 consistent with the person's training, education or
12 experience and average final compensation adjusted by
14 the same percentage adjustment as has been received
16 under section 17806. The disability retirement benefit
18 continues if the person can effectively demonstrate to
20 the executive director that the person is actively
seeking work. For the purposes of this subparagraph,
the ability to engage in substantially gainful activity
is demonstrated by the performance of work resulting in
annual earnings that exceed \$20,000 or 80% of the
disability retirement benefit of the recipient's
average final compensation at retirement, whichever is
greater, adjusted by the same percentage adjustments
granted under section 17806.

22 (2) If the person refuses to submit to the
24 examinations or tests under this paragraph, the
disability retirement benefit is discontinued until
that person withdraws the refusal.

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

30 (4) If it is determined, on the basis of the
32 examinations or tests under this paragraph, that the
34 disability of a person no longer exists, the payment of
the disability retirement benefit ceases.

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

40 (a) The decision is subject to appeal under
section 17451.

42 (b) If the person appeals the executive
44 director's decision, the disability retirement
46 allowance may not be discontinued until all
appeals have been exhausted.

48 **Sec. 3. 5 MRSA §18507, sub-§2, ¶B,** as enacted by PL 1985, c.
801, §§5 and 7, is amended to read:

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2 B. After the disability has continued for 5 years, the
3 disability of the beneficiary must render ~~him~~ the
4 beneficiary unable to engage in any substantially gainful
5 activity for which the beneficiary is qualified by training,
6 education or experience. For purposes of this paragraph,
7 the ability to engage in substantially gainful activity is
8 demonstrated by the performance of work resulting in annual
9 earnings that exceed \$20,000 or 80% of the disability
10 retirement benefit of the recipient's average final
11 compensation at retirement, whichever is greater, adjusted
12 by the same percentage adjustments granted under section
13 18407.

14 (1) The executive director may require, once each
15 year, a recipient of a disability retirement benefit to
16 undergo medical examinations or tests, conducted in
17 accordance with section 18503, to determine the
18 disability of the beneficiary.

19 (2) If the beneficiary refuses to submit to the
20 examination or tests under subparagraph (1), ~~his~~ the
21 beneficiary's disability retirement benefit ~~shall be~~ is
22 discontinued until he ~~the beneficiary~~ withdraws the
23 refusal.

24 (3) If the beneficiary's refusal under subparagraph
25 (2) continues for one year, all ~~his~~ the beneficiary's
26 rights to any further benefits under this article shall
27 cease.

28 (4) If it is determined, on the basis of the
29 examination or tests under subparagraph (1), that the
30 disability of a beneficiary no longer exists, the
31 payment of ~~his~~ the beneficiary's disability retirement
32 benefit ~~shall cease, and ceases.~~

33 **Sec. 4. 5 MRSA §18529, sub-§2, ¶B,** as amended by PL 1995, c.
34 643, §27, is further amended to read:

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

43 (1) After the disability has continued for 2 years,
44 the disability must render the person unable to engage
45 in any substantially gainful activity that is

2 consistent with the person's training, education or
3 experience and average final compensation adjusted by
4 the same percentage adjustment as has been received
5 under section 18407. The disability retirement benefit
6 continues if the person can effectively demonstrate to
7 the executive director that the person is actively
8 seeking work. For purposes of this subparagraph, the
9 ability to engage in substantially gainful activity is
10 demonstrated by the performance of work resulting in
11 annual earnings that exceed \$20,000 or 80% of the
12 disability retirement benefit of the recipient's
13 average final compensation at retirement, whichever is
14 greater, adjusted by the same percentage adjustments
granted under section 18407.

16 (2) If the person refuses to submit to the
17 examinations or tests under this paragraph, the
18 disability retirement benefit is discontinued until
19 that person withdraws the refusal.

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

24 (4) If it is determined, on the basis of the
25 examinations or tests under this paragraph, that the
26 disability of a person no longer exists, the payment of
27 the disability retirement benefit ceases.

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

34 (a) The decision is subject to appeal under
35 section 17451.

36 (b) If the person appeals the executive
37 director's decision, the disability retirement
38 allowance may not be discontinued until all
39 appeals have been exhausted.

42 **Sec. 5. Retroactivity.** This Act applies retroactively to
43 January 1, 2000.

46 SUMMARY

48 This bill amends the laws regarding disability retirement
49 benefits under the Maine Revised Statutes to clarify
50 substantially gainful activity as being demonstrated by the

2 performance of work resulting in annual earnings that exceed
\$20,000 or 80% of the disability retirement benefit of the
4 recipient's average final compensation at retirement, whichever
is greater.