

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)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

CHAPTER 133

H.P. 556 - L.D. 754

An Act to Amend Certain Portions of the Maine Legislative Retirement System and the Maine Judicial Retirement System to Make Them Comparable to Similar Portions of the Maine State Retirement System Statutes

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

Sec. 1. 3 MRSA §701, sub-§§6, 7, 10, 13 and 14, as enacted by PL 1985, c. 507, §1, are repealed.

Sec. 2. 3 MRSA §701, sub-§15, as enacted by PL 1985, c. 507, §1, is amended to read:

15. Regular interest. "Regular interest" means interest at the rate which the Board of Trustees of the Maine State Retirement System sets from time to time, in accordance with Title 5, section ~~4061, subsection 2~~ 17156.

Sec. 3. 3 MRSA §701, sub-§17, as enacted by PL 1985, c. 507, §1, is repealed.

Sec. 4. 3 MRSA §731, sub-§1, as enacted by PL 1985, c. 507, §1, is amended to read:

1. Duties. The board shall have the same duties with respect to the Maine Legislative Retirement System as the Board of Trustees of the Maine State Retirement System has with the Maine State Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter ~~404~~ 421, subchapters ~~H and III, IV and V~~.

Sec. 5. 3 MRSA §735, as enacted by PL 1985, c. 507, §1, is amended to read:

§735. Administrative procedures

Appeal from the executive director's decision shall be the same as provided for the Maine State Retirement System in Title 5, section ~~4484~~ 17451.

Sec. 6. 3 MRSA §751, as amended by PL 1987, c. 402, Pt. A, §7, is further amended to read:

§751. Control of funds

The board of trustees shall be the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the Maine State Retirement System funds in accordance with Title 5, chapter ~~404~~ 421, ~~subchapter III~~ subchapters III and IV. The board may establish separate funds or accounts within a fund, as necessary.

Sec. 7. 3 MRSA §801, sub-§1, as enacted by PL 1985, c. 507, §1, is amended to read:

1. Membership mandatory. Every Legislator serving in the Legislature on or after December 3, 1986, shall be a member of the Maine Legislative Retirement System, except that any Legislator who is a member of the Maine State Retirement System on December 2, 1986, may continue to be a member of that system instead of becoming a member of the Maine Legislative Retirement System, and any Legislator who is a public school teacher or an employee of the Vocational-Technical Institute System on leave of absence shall continue to be a member of the Maine State Retirement System and have contributions deducted from ~~his~~ the member's legislative salary as provided by Title 5, section ~~4094, subsection 3~~ 17701. A Legislator who is the recipient of a retirement allowance from the Maine State Retirement System shall become a member of the Maine Legislative Retirement System, but no creditable service granted under the Maine State Retirement System shall be transferred to the Maine Legislative Retirement System. A member shall cease to be a member when ~~he~~ the member withdraws ~~his~~ the member's contributions, becomes a beneficiary as a result of ~~his~~ the member's own retirement or dies.

Sec. 8. 3 MRSA §851, first ¶, as enacted by PL 1985, c. 507, §1, is amended to read:

Upon written application to the board setting forth the date upon which ~~he~~ the member chooses to ~~retire~~ terminate employment, any member may retire on a service retirement allowance upon meeting one of the following.

Sec. 9. 3 MRSA §853, as enacted by PL 1985, c. 507, §1, is amended to read:

§853. Disability retirement

Any member who becomes disabled while in service may receive a disability retirement allowance on the same basis as provided for members of the Maine State Retirement System by Title 5, ~~section 4422~~ chapter 423, subchapter V, article 3.

Sec. 10. 3 MRSA §855, as enacted by PL 1985, c. 507, §1, is amended to read:

§855. Ordinary death benefits

If a member who is in service or a former member who is a recipient of a disability retirement allowance dies, ~~his~~ the member's beneficiary, or relative if ~~he~~ has no designated beneficiary, shall be entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the Maine State Retirement System by Title 5, ~~section 4424~~ chapter 423, subchapter V, article 4.

Sec. 11. 3 MRSA §856, as enacted by PL 1985, c. 507, §1, is amended to read:

§856. Accidental death benefits

If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits shall be paid on the same basis as provided for members of the Maine State Retirement System.

ment System by Title 5, ~~section 4125~~ chapter 423, subchapter V, article 5.

Sec. 12. 3 MRSA §857, as enacted by PL 1985, c. 507, §1, is amended to read:

§857. Payment of service retirement allowance

All service retirement allowances shall be paid on the same basis as provided for members of the Maine State Retirement System by Title 5, section ~~4126~~ 17804.

Sec. 13. 3 MRSA §858, as enacted by PL 1985, c. 507, §1, is amended to read:

§858. Cost-of-living and other adjustments

Retirement allowances under this chapter shall be adjusted on the same basis as provided for members of the Maine State Retirement System by Title 5, section ~~4128~~ 17806.

Sec. 14. 3 MRSA §859 is enacted to read:

§859. Remarriage after retirement

If a retiree who is the recipient of a reduced service retirement allowance under section 857 remarries after the retiree's spouse dies, the retiree may elect to have the reduced retirement benefit paid under the same option to the new spouse after the retiree's death instead of continuing the original reduced retirement allowance to the retiree during the retiree's lifetime, under the same basis as provided for members of the Maine State Retirement System by Title 5, section 17805.

Sec. 15. 4 MRSA §1201, sub-§3, as amended by PL 1983, c. 863, Pt. B, §§8 and 45, is repealed and the following enacted in its place:

3. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as a judge, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest; or

B. The average annualized rate of earnable compensation of a member during the entire period of creditable service if that period is less than 3 years.

Sec. 16. 4 MRSA §1201, sub-§6, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is repealed.

Sec. 17. 4 MRSA §1201, sub-§6-A is enacted to read:

6-A. Dependent child. "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment.

Sec. 18. 4 MRSA §1201, sub-§§10, 15 and 16, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, are repealed.

Sec. 19. 4 MRSA §1201, sub-§19, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

19. Spouse. "Spouse" means the person currently legally ~~the member is married to or, if not married, the person the a member has most recently divorced, provided that person has not remarried.~~

Sec. 20. 4 MRSA §1201, sub-§20 is enacted to read:

20. Surviving spouse. "Surviving spouse" means the spouse alive at the time of the death of the member or former member.

Sec. 21. 4 MRSA §1231, sub-§1, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

1. Duties. The board shall have the same duties with respect to the Maine Judicial Retirement System as ~~it does with~~ the board of the Maine State Retirement System has with respect to the Maine State Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter ~~404~~ 421, subchapters ~~H and~~ III, IV and V.

Sec. 22. 4 MRSA §1235, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1235. Administrative procedures

Appeal from the executive director's decision shall be the same as provided for the Maine State Retirement System in Title 5, section ~~4184~~ 17451.

Sec. 23. 4 MRSA §1251, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

§1251. Control of funds

The board of trustees shall be the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the Maine State Retirement System funds in accordance with Title 5, chapter ~~404~~ 421, ~~subchapter~~ subchapters III and IV. The board may establish separate funds or accounts within a fund, as necessary.

Sec. 24. 4 MRSA §1302, sub-§1, as amended by PL 1983, c. 863, Pt. B, §§19 and 45, is further amended to read:

1. **Membership service.** All judicial service of a member after November 30, 1984, ~~and prior to the member's 71st birthday~~, for which contributions are made shall be allowed as creditable service.

Sec. 25. 4 MRSA §1303, sub-§1, as amended by PL 1983, c. 863, Pt. B, §§20 and 45, is further amended to read:

1. **Payment.** For each member, ~~who has not attained the age of 71~~, the State shall pay annually into the fund an amount known as the employer contribution.

Sec. 26. 4 MRSA §1304, as amended by PL 1983, c. 863, Pt. B, §§21 and 45, is further amended to read:

§1304. Employees' contributions

Each member in service, ~~prior to attaining age 71~~, shall contribute at a rate of 6.5% of earnable compensation.

Sec. 27. 4 MRSA §1305, sub-§1, ¶B, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

B. Payment of accumulated contributions shall not be made earlier than ~~45 days after the date of termination of service~~ 22 days nor more than 37 days after receipt of the application and the last payroll upon which the name of the member appears, whichever occurs later.

Sec. 28. 4 MRSA §1352, sub-§6, as enacted by PL 1983, c. 863, Pt. B, §§25 and 45, is repealed.

Sec. 29. 4 MRSA §1353, sub-§3, as amended by PL 1983, c. 863, Pt. B, §§26 and 45, is further amended to read:

3. **Commencement.** Disability retirement allowance payments shall commence at on the first day of the month following the date of termination of active service of the member. Termination of active service shall create a vacancy on the court.

Sec. 30. 4 MRSA §1355, as amended by PL 1983, c. 863, Pt. B, §§28 to 30 and 45, is repealed and the following enacted in its place:

§1355. Ordinary death benefits

If a member who is in service or a former member who is a recipient of a disability retirement allowance dies, the member's beneficiary, or relative if the member has no designated beneficiary, shall be entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the Maine State Retirement System by Title 5, chapter 423, subchapter V, article 3.

Sec. 31. 4 MRSA §1355-A, sub-§1, as amended by PL 1983, c. 863, Pt. B, §§31 and 45, is further amended to read:

1. **Benefit.** Notwithstanding the provisions of section 1355, any eligible surviving spouse and dependent child or children of a judge who was in service prior to December 1, 1984, shall, upon the death of that judge, be entitled to a minimum benefit of 1/2 the retirement benefit of the judge, determined in accordance with section 1352, on the assumption that retirement of the judge had taken place on the date of his death. If more than one child is eligible for this benefit, it shall be divided equally among them. This benefit shall continue as long as the spouse or child or children remain eligible.

Sec. 32. 4 MRSA §1355-A, sub-§2, ¶B, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

B. The dependent child or children are eligible if until they no longer meet the definition of "dependent child" under section 1201, subsection 6-A.

~~(1) They are under 18 years of age. Eligibility ceases upon attainment of age 18; and~~

~~(2) There is no surviving spouse, or the surviving spouse becomes the dependent of another person, or if the surviving spouse dies.~~

Sec. 33. 4 MRSA §1356, as amended by PL 1983, c. 863, Pt. B, §§33, 34 and 45, is repealed and the following enacted in its place:

§1356. Accidental death benefits

If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits shall be paid on the same basis as provided for members of the Maine State Retirement System by Title 5, chapter 423, subchapter V, article 5.

Sec. 34. 4 MRSA §1357, sub-§1, as amended by PL 1985, c. 475, §§1 and 4, is further amended to read:

1. **Normal method of payment.** Payment of all regular retirement allowances shall begin on the first day of the month following the month in which the member becomes eligible to receive payment of regular retirement allowance under section 1351 or 1353, subsection 7. A full month's allowance shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. All regular retirement allowances shall be paid for life in equal monthly installments, adjusted in the month which the death occurs to reflect the date of death, unless an alternative method of payment under one of the options of subsection 2 has been elected.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of

age or older on that date and who is the recipient of a retirement allowance under the normal method of payment, the surviving spouse who is the named beneficiary at the date of retirement shall become entitled to 1/2 of the amount being paid at the time of ~~his~~ the member's death which payment shall continue for the remainder of ~~his~~ the spouse's lifetime.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who becomes the recipient of a disability retirement allowance, ~~his~~ the surviving spouse who is the named beneficiary shall become entitled to 1/2 the amount that ~~he~~ the member would have been entitled to as a service retirement allowance under the normal method of payment as of the date of ~~his~~ the member's death.

Sec. 35. 4 MRSA §1360 is enacted to read:

§1360. Remarriage after retirement

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C or D remarries after the retiree's spouse dies, the following provisions apply.

1. Election of benefit for new spouse. The retiree may elect to have the reduced retirement benefit paid under the same option to the new spouse after the retiree's death instead of continuing the original reduced retirement allowance to the retiree during the retiree's lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement allowance under section 1357, subsection 2, paragraph B, C or D; and

B. The retiree must have been married to the new spouse for at least 6 months.

2. Time and manner of election. The retiree may make the election at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and

B. Submitting evidence of the death of the former spouse and date of marriage to the new spouse.

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement allowance the retiree has been receiving.

4. Effective date of coverage of new spouse. The effective date of the designation of the new spouse as the retiree's new beneficiary shall be the date the request is received or 6 months after the date of remarriage, whichever comes later. The retiree's retirement allowance shall be

adjusted on the first day of the month following the effective date of the new designation of beneficiary.

See title page for effective date.

CHAPTER 134

H.P. 677 - L.D. 928

An Act Concerning Subpermitting of Moose Hunting Licenses

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

12 MRSA §7463-A, sub-§4, as amended by PL 1987, c. 742, §9, is further amended to read:

4. Hunting permits. The commissioner may issue up to 1,000 moose hunting permits annually and may establish the number of moose hunting permits to be issued for each moose hunting zone. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters. A person whose application is selected may purchase a moose hunting permit upon presentation of proof that ~~he~~ the person possesses:

A. A valid Maine hunting license, if ~~he~~ the person is a resident of the State; or

B. A valid Maine big game hunting license, if ~~he~~ the person is a nonresident or alien.

The fee for a moose hunting permit is \$25 for residents and \$200 for nonresidents and aliens. At the time the permit is obtained, the permittee may designate a subpermittee to hunt with ~~him~~ the permittee. The permittee may choose not to designate a subpermittee and hunt alone, but a subpermittee must always be in the presence of the permittee while hunting moose. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. The permittee who has designated a subpermittee may rescind the original designation and designate a different person. The permittee may change the subpermittee only once. An application to change the subpermittee designation must be received by the department at least 5 business days prior to the first day of the moose season. While hunting moose, each nonresident or alien hunter shall be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.

See title page for effective date.

CHAPTER 135

H.P. 134 - L.D. 178

An Act to Establish Rules for the Use of Dynamite and Explosives