

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

CHAPTER 442

H.P. 941 - L.D. 1255

**An Act to Expand Retirement
Benefits for State Employees and
Teachers Returning to Service**

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

Sec. 1. 5 MRSA §17855, as amended by PL 1997, c. 769, §18, is repealed.

Sec. 2. 5 MRSA §17857, sub-§2, ¶B, as amended by PL 1997, c. 769, §19, is repealed.

Sec. 3. 5 MRSA §17858-A, as corrected by RR 1997, c. 2, §21, is repealed.

Sec. 4. 20-A MRSA §12722, sub-§3, as amended by PL 1999, c. 614, §1, is further amended to read:

3. Maine State Retirement System members.

An eligible person who becomes a participant in the defined contribution plan offered by the board of trustees and who is a member of the Maine State Retirement System at the time participation in the defined contribution plan begins may apply for a refund of accumulated contributions from the Maine State Retirement System pursuant to Title 5, section 17705, except that any such person who has less than the number of years of creditable service required to be eligible for a Maine State Retirement System benefit as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B shall apply for a refund of accumulated contributions. Participation in the defined contribution plan offered by the board of trustees pursuant to this section is considered a termination of service for purposes of Title 5, section 17705 as of the date specified in the notification in subsection 2, paragraph A or the date of hire pursuant to subsection 2, paragraph B, except that, if an application is made for refund of accumulated contributions under an election pursuant to subsection 2, paragraph A, payment must be made no later than 90 days after receipt of the application by the Maine State Retirement System. Service rendered while a participant in the defined contribution plan offered by the board of trustees does not constitute service for a Maine State Retirement System member who does not withdraw contributions from the Maine State Retirement System nor is the member considered to be in service for purposes of Title 5, chapter 423, subchapter V, articles 3-A, 4 and 5 ~~or, if the recipient of a service retirement benefit, restored to service for purposes of Title 5, section 17855.~~

**Sec. 5. Status of employees who have re-
tired and returned to covered employment
under the Maine State Retirement System.**

Notwithstanding the Maine Revised Statutes, Title 5, section 17651, and, except as provided in Title 5, section 17857, subsection 2, recipients of a service retirement benefit from the Maine State Retirement System who have returned to covered employment under the retirement system in a position that would otherwise be covered by the retirement plan for state employees and teachers may not contribute to the retirement system, do not earn creditable service for their employment after retirement and do not earn any additional retirement benefits as a result of that employment. They may participate in other retirement options available to similar employees, including the state program of tax-deferred arrangements under Title 5, chapter 67, at the discretion of their employer. For purposes of participation in the state employee health insurance program pursuant to the Maine Revised Statutes, Title 5, section 285 or in dental health insurance coverage offered by the State, recipients of a service retirement benefit under the Maine State Retirement System who are retired state employees and who are reemployed as state employees must be treated as retirees under section 285, subsection 1-A for purposes of eligibility for coverage under the group plan.

See title page for effective date.

CHAPTER 443

H.P. 94 - L.D. 98

**An Act to Increase the Limit on
Earnings for Beneficiaries of
Disability Retirement Benefits**

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,

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

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

1. Excess compensation. If, ~~in any year,~~ the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds ~~\$10,000~~ \$20,000 in 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:

A. The excess ~~shall~~ must be deducted from the disability or 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 part of the year for which the benefits are received; and

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

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

2. Compensation from employment not covered by this 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 of ~~\$10,000~~ \$20,000 in calendar year 2000 or in any subsequent year that amount as cumulatively increased or decreased by the same percentage adjustments granted under section 17806, subsection 1, paragraphs A and B, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased or decreased by the same percentage adjustments as have been granted by section 17806:

A. The excess ~~shall~~ must be deducted from the disability or 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 part of the year for which the benefits are received;

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

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

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

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

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

A. The excess ~~shall~~ must be deducted from the disability or 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 part of the year for which the benefits are received; and

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

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

2. Compensation from employment not covered by this 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 423, subchapter V, article 3-A, which exceeds ~~\$10,000~~ \$20,000, increased or decreased by the same percentage adjustments as are granted under section 18407, subsection 4, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased or decreased by the same percentage adjustments as have been granted by section 18407, whichever is greater:

A. The excess ~~shall~~ must be deducted from the disability or 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 part of the year for which the benefits are received;

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

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

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

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

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

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

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

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

Effective June 27, 2001, unless otherwise indicated.

CHAPTER 444

S.P. 14 - L.D. 31

An Act to Eliminate the Fee for Veterans Registration Plates

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

Sec. 1. 29-A MRS §523, sub-§3, as amended by PL 1999, c. 751, §1, is further amended to read:

3. Special veterans registration plates. The Secretary of State, on application and upon evidence