

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

SECOND SPECIAL SESSION
September 29, 2021

SECOND REGULAR SESSION
January 5, 2022 to May 9, 2022

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 29, 2021

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 8, 2022

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

Augusta, Maine
2022

3. Withdrawal. Any member state may withdraw from this compact by enacting a statute repealing the same.

A. A member state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

B. Withdrawal does not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this chapter prior to the effective date of withdrawal.

4. Other agreements or arrangements. Nothing contained in this compact may be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

5. Amendment. This compact may be amended by the member states. An amendment to this compact does not become effective and binding upon any member state until it is enacted into the laws of all member states.

§18565. Construction and severability

This compact may be liberally construed so as to effectuate the purposes thereof. The provisions of this compact must be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance is not affected thereby. If this compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

§18566. Binding effect of compact and other laws

1. Adherence. A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.

2. Enforcement. Nothing in this chapter prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

3. Conflict. Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

4. Binding actions. Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

5. Binding agreements. All permissible agreements between the commission and the member states are binding in accordance with their terms.

6. Constitutional limits. In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

§18567. Legislative intent

This compact is the Maine enactment of the Interstate Counseling Compact. The form, format and text of the compact have been changed minimally so as to conform to Maine statutory conventions. The changes are technical in nature and it is the intent of the Legislature that this compact be interpreted as substantively the same as the Interstate Counseling Compact that is enacted by other member states.

See title page for effective date.

CHAPTER 548

H.P. 1430 - L.D. 1922

**An Act To Amend Certain
Laws Pertaining to the Maine
Public Employees Retirement
System**

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

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

2. Actuarial equivalent. "Actuarial equivalent" means ~~a benefit which is an amount~~ of equal value when computed at ~~regular interest, based on the mortality and service tables~~ the discount rate contained in actuarial assumptions adopted by the board of trustees.

Sec. 2. 4 MRSA §1201, sub-§2, as enacted by PL 1983, c. 853, Pt. C, §§15 and 18, is amended to read:

2. Actuarial equivalent. "Actuarial equivalent" means ~~a benefit which is an amount~~ of equal value when computed at ~~regular interest, based on the mortality and service tables~~ the discount rate contained in actuarial assumptions adopted by the board of trustees.

Sec. 3. 4 MRSA §1352, sub-§5, as amended by PL 1997, c. 643, Pt. M, §12, is repealed.

Sec. 4. 4 MRSA §1355, as amended by PL 2007, c. 491, §52, is further amended to read:

§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, is entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article 3 4.

Sec. 5. 4 MRSA §1357, sub-§2, as amended by PL 2007, c. 491, §§54 to 57, is further amended by amending the 2nd blocked paragraph to read:

For the purposes of this subsection, "qualifying member" means a member or a former member who is has been receiving a disability retirement benefit and changes to service retirement under section 1353, subsection 7.

Sec. 6. 5 MRSA §17001, sub-§2, as amended by PL 1993, c. 387, Pt. A, §3, is further amended to read:

2. Actuarial equivalent. "Actuarial equivalent" means an amount of equal value when computed at ~~an interest~~ the discount rate contained in actuarial assumptions adopted by the board ~~and upon the basis of mortality and service tables adopted by the board.~~ "Actuarial equivalent," when used to indicate the amount that must be paid in order to purchase service credit, means the amount that equals the cost of additional benefits that become payable as a result of the service credit, including, when applicable, the projected cost of a member's earlier eligibility for retirement.

Sec. 7. 5 MRSA §17001, sub-§42, as amended by PL 2021, c. 6, §1, is further amended to read:

42. Teacher. "Teacher" means:

A. Any employee of a public school or ~~a school management and leadership~~ an education service center established pursuant to Title 20-A, chapter 123 who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position, other than an educational technician position for which certification is not required under Title 20-A, section 13019-H, and:

- (1) Holds appropriate certification from the Department of Education, including an employee whose duties include, in addition to those for which certification is required, either the setup, maintenance or upgrading of a school computer system the use of which is to assist in the introduction of new learning to students or providing school faculty orientation and training related to use of the computer system for educational purposes; or
- (2) Holds an appropriate license issued to a professional employee by a licensing agency of the State;

B. Any employee of a public school or ~~a school management and leadership~~ an education service center established pursuant to Title 20-A, chapter 123 who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that a coach who is employed by a public school and who is not otherwise covered by the definition of teacher ~~as defined~~ in this subsection or an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher ~~de- defined~~ in this subsection may not be considered a teacher for purposes of this Part;

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B ~~which that~~ was included in the definition of teacher in effect on June 30, 1989, as long as:

- (1) The employee does not terminate employment; or
- (2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position ~~which that~~ was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date;

D. Any employee of a public school or ~~a school management and leadership~~ an education service center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher on August 1, 1988, as long as:

- (1) The employee does not terminate employment; or
- (2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination;

E. Any former employee of a public school or ~~a school management and leadership~~ an education service center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher before August 1, 1988, as long as the former employee returns to employment in a position in the same classification before July 1, 1991; or

F. For service before July 1, 1989, any employee of a public school in a position ~~which that~~ was included in the definition of teacher before July 1, 1989.

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

"Teacher" also includes a person who is on a leave of absence from a position as a teacher and is duly elected as President of the Maine Education Association.

"Teacher" also includes a person who, subsequent to July 1, 1981, has served as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit and for whom contributions related to the portion of the person's salary attributable to the released time have been paid as part of the regular payroll of the school administrative unit.

Sec. 8. 5 MRSA §17054-A, as enacted by PL 2009, c. 474, §12, is amended to read:

§17054-A. Responsibilities of employers and the retirement system

Employers are responsible for providing procedures by which employees for whom membership in the retirement system is optional make a membership election, for maintaining all records relevant to the election process and an individual employee's election and for informing the retirement system as to employee elections in accordance with procedures established by the ~~chief executive director officer~~. The retirement system is responsible to ensure that its records accurately reflect the information provided by the employer. With respect to matters related to participation and membership in the retirement system other than those specified in this section, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the employer and the employees to whom this Part applies, including the authority to make final administrative decisions on membership eligibility based on employee membership elections as reported by the employer pursuant to this section, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and United States Treasury regulations applicable to governmental qualified defined benefit plans.

Sec. 9. 5 MRSA §17102, sub-§1, ¶D, as amended by PL 1995, c. 3, §1, is further amended by amending subparagraph (3) to read:

(3) One of whom must be the recipient of a retirement allowance through the retirement

system and be selected from a list or lists of nominees submitted by retired state employees, retired participating local district employees, the Maine Association of Retirees or a committee ~~comprised~~ composed of representatives of these groups; and

Sec. 10. 5 MRSA §17103, sub-§6, as amended by PL 2015, c. 384, §1, is further amended to read:

6. Rights, credits ~~and~~, privileges and membership eligibility; decisions. The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service. The board shall also in all cases make the final and determining administrative decision on membership eligibility based on employee membership elections as reported by the employer pursuant to section 17054-A, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and United States Treasury regulations applicable to governmental qualified defined benefit plans. The board otherwise has no jurisdiction to hear a matter or make an administrative decision regarding a claim of an employee of a local plan for which membership is optional pursuant to section 18252, if that claim applies to a time when the employee was not a member of the retirement system.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.

Sec. 11. 5 MRSA §17103, sub-§8, as amended by PL 1989, c. 483, Pt. A, §§27 and 63, is further amended to read:

8. ~~Executive director~~ Chief executive officer. The board shall appoint ~~an a~~ chief executive director officer, whose salary ~~shall~~ must be set by the board subject to the requirements of Title 2, section 6-D.

Sec. 12. 5 MRSA §17103, sub-§11, ¶I, as enacted by PL 2009, c. 322, §4, is amended to read:

I. The total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; ~~and~~

Sec. 13. 5 MRSA §17103, sub-§11, ¶J, as enacted by PL 2009, c. 322, §4, is amended by repealing subparagraph (2).

Sec. 14. 5 MRSA §17103, sub-§11, ¶J, as enacted by PL 2009, c. 322, §4, is amended by amending subparagraph (3) to read:

(3) The ~~net~~ number of applicants for disability retirement who appealed decisions that denied disability retirement status; and

Sec. 15. 5 MRSA §17103, sub-§11, ¶J, as enacted by PL 2009, c. 322, §4, is amended by amending subparagraph (4) to read:

(4) The number of applicants who were granted disability retirement following their appeals; and

Sec. 16. 5 MRSA §17103, sub-§11, ¶K is enacted to read:

K. Data from a survey of members and employees that measures the level of satisfaction and experience that members and employees have with the retirement system. For the purposes of this paragraph, "employee" means an employee of the retirement system.

Sec. 17. 5 MRSA §17103, sub-§12, as enacted by PL 1993, c. 387, Pt. A, §4, is amended to read:

12. Defined contribution plan, deferred compensation and tax sheltered annuity plans. The board shall establish ~~a one or more defined contribution plan by July 1, 1994 that is, deferred compensation or tax sheltered annuity plans~~ consistent with the applicable requirements of the United States Internal Revenue Code and may ~~be a defined contribution plan for other purposes. The board may establish a separate defined contribution plan or plans for other purposes, with employer agreement, offer participation in such plans to employees eligible for membership in a retirement program of the retirement system.~~

Sec. 18. 5 MRSA §17154, sub-§6, ¶J, as enacted by PL 2019, c. 460, §2, is amended to read:

J. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by ~~a school management and leadership~~ an education service center, as defined in Title 20-A, section 3801, subsection 1, paragraph B, whose funding is provided from local and state funds must be paid by that ~~school management and leadership~~ education service center.

Sec. 19. 5 MRSA §17706-A, sub-§1, as amended by PL 2011, c. 449, §8, is further amended by amending the first blocked paragraph to read:

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section for a member who has not reached the later of 62 years of age or normal retirement age may not exceed \$1,000.

Sec. 20. 5 MRSA §17760, sub-§3, ¶A, as amended by PL 2007, c. 491, §137, is further amended by amending subparagraph (3) to read:

(3) Was awarded an Armed Forces Expeditionary Medal, a Combat Action Ribbon, a Combat Infantry Badge or any other campaign or expeditionary medal and the receipt of such a medal would allow the member to be considered "preference eligible" under 5 United States Code, Section 2108(3)(A) ~~or 2108(3)(B)~~. A member described in this subparagraph is entitled to purchase service credit at the cost set forth in subsection 4 only if a cost subsidy for that member's service credit has been paid to the State Employee and Teacher Retirement Program as provided in subsection 6.

Sec. 21. 5 MRSA §17804, sub-§5-A, as enacted by PL 1999, c. 744, §8 and affected by §17, is amended to read:

5-A. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director or officer~~ on a form provided or specified by the retirement system.

Sec. 22. 5 MRSA §17804, sub-§5-B, as enacted by PL 1999, c. 744, §8 and affected by §17, is amended to read:

5-B. Option 5. The qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director or officer~~ on a form provided or specified by the retirement system.

Sec. 23. 5 MRSA §17804, sub-§5-C, as enacted by PL 1999, c. 744, §8 and affected by §17, is amended to read:

5-C. Option 6. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

Sec. 24. 5 MRSA §17804, sub-§5-D, as enacted by PL 1999, c. 744, §8 and affected by §17, is amended to read:

5-D. Option 7. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

Sec. 25. 5 MRSA §17804, sub-§5-F, as amended by PL 2007, c. 523, §2, is further amended to read:

5-F. Change of beneficiary. If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E; and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the

amount of the benefits under that option, by filing a written designation of the new beneficiary, duly ~~notarized~~ acknowledged, with the ~~chief executive director~~ officer on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit.

B. The effective date of the designation of the new beneficiary is the date the designation is received by the ~~chief executive director~~ officer. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 5-B has been elected, the new beneficiary's benefit must become effective on the same date.

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; ~~or~~ and

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of ~~subparagraph~~ subparagraphs (1) ~~or~~ and (2).

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C.

Sec. 26. 5 MRSA §17804, sub-§7, ¶A, as enacted by PL 1999, c. 744, §9 and affected by §17, is amended to read:

A. By written certification of the spouse, duly ~~notarized~~ acknowledged and filed with the chief executive officer, on a form provided or specified by the retirement system, indicating that notice has been received from the qualifying member; or

Sec. 27. 5 MRSA §17804, sub-§7, ¶B, as enacted by PL 1999, c. 744, §9 and affected by §17, is amended to read:

B. When notice has been given but certification by the spouse has not been provided, by written certification of the qualifying member, duly ~~notarized~~ acknowledged and filed with the chief executive officer, on a form provided or specified by the retirement system, indicating that notice has been given to the spouse.

Sec. 28. 5 MRSA §17851, sub-§16 is enacted to read:

16. Member whose position is moved from one special plan to another special plan. A member whose position is subject to subsection 4, 5-B, 6-B or 7, section 17851-A or section 17851-B and, due to a change in law, becomes subject to different benefit qualification requirements may retire under the former benefit qualification requirements and the associated benefit computation provisions if the member remains in the position until the former requirements would have been met had the change in law not occurred.

Sec. 29. 5 MRSA §17906, sub-§1, as amended by PL 2001, c. 443, §1 and affected by §7, is further amended to read:

1. Excess compensation. If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$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 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. 30. 5 MRSA §17906, sub-§3, as amended by PL 2007, c. 491, §176, is further amended to read:

3. Restoration to service. If any recipient of a disability retirement benefit is restored to service and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceeds ~~his~~ the recipient's average final compensation at retirement, increased ~~or decreased~~ by the same percentage adjustments as have been received under section 17806, the excess ~~shall~~ must be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions ~~shall~~ must be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person again becomes a member of the State Employee and Teacher Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person ~~shall~~ must receive benefits computed on the person's entire creditable service and in accordance with the law in effect at that time.

Sec. 31. 5 MRSA §17930, sub-§2, as amended by PL 2021, c. 277, §26, is further 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 ~~¶~~ 5, article 3-A, ~~which that~~ exceeds the greater of \$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 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 is deemed to no longer exist, the payment of the disability retirement benefit must be discontinued and, except as provided in paragraph C, all of the person's rights to benefits under this article 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 in accordance with section 17927. 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 ~~chief executive director~~ officer 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 ~~chief executive director~~ officer shall terminate benefit payments at the end of the month in which the request is received.

Sec. 32. 5 MRSA §18252, sub-§6, as amended by PL 2017, c. 392, §3, is repealed.

Sec. 33. 5 MRSA §18252-A, sub-§2, ¶C, as enacted by PL 1997, c. 709, §4, is amended to read:

C. The participating local district employer is responsible for providing procedures by which employees make elections under this section, for maintaining all records relevant to the election process and each employee's elections, for informing the retirement system as to employee elections in accordance with procedures established by the ~~chief executive director~~ officer and for making all administrative decisions, including the final administrative decision, ~~in any dispute related to an employee's elections or administrative decision, in any dispute related to over the election process or an employee's elections or to any issue as to the plan provided by the employer under section 18252-B. Neither the retirement system nor the system's board of trustees has responsibility or jurisdiction to make the final administrative decision with respect to any of these matters. The retirement system is responsible only to ensure that its records accurately reflect the information provided by the employer, the employer's decision as to any of these matters, and the legally cognizable outcome of any dispute related to any of these matters.~~

Sec. 34. 5 MRSA §18252-A, sub-§2, ¶D, as enacted by PL 1997, c. 709, §4, is amended to read:

D. With respect to matters related to participation and membership other than those specified as the responsibility of the employer in paragraph C, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the participating local districts and their employees to whom this section applies, including the authority to make final administrative decisions on membership eligibility based on employee membership elections as reported by the employer pursuant to this section, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and

United States Treasury regulations applicable to governmental qualified defined benefit plans.

Sec. 35. 5 MRSA §18252-B, sub-§3, as amended by PL 2007, c. 491, §196, is further amended to read:

3. Employee contribution. The employee must contribute as a percentage of compensation in each pay period an amount not less than the employee would have been required to contribute as of the employee's date of hire had the employee been a member under the Participating Local District Retirement Program under the so-called "Regular Plan A" of the consolidated plan for participating local districts, consistent with applicable contribution limits of federal law.

Sec. 36. 5 MRSA §18307-A, sub-§1, as amended by PL 2011, c. 449, §19, is further amended by amending the first blocked paragraph to read:

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this subsection for a member who has not reached the later of 62 years of age or normal retirement age may not exceed \$1,000.

Sec. 37. 5 MRSA §18404, sub-§5-A, as enacted by PL 1999, c. 744, §13 and affected by §17, is amended to read:

5-A. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system.

Sec. 38. 5 MRSA §18404, sub-§5-B, as enacted by PL 1999, c. 744, §13 and affected by §17, is amended to read:

5-B. Option 5. The qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying

member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system.

Sec. 39. 5 MRSA §18404, sub-§5-C, as enacted by PL 1999, c. 744, §13 and affected by §17, is amended to read:

5-C. Option 6. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit ~~shall~~ must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

Sec. 40. 5 MRSA §18404, sub-§5-D, as enacted by PL 1999, c. 744, §13 and affected by §17, is amended to read:

5-D. Option 7. The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly ~~notarized~~ acknowledged and filed with the ~~chief executive director~~ officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

Sec. 41. 5 MRSA §18404, sub-§5-F, as amended by PL 2007, c. 523, §3, is further amended to read:

5-F. Change of beneficiary. If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly ~~notarized~~ acknowledged with the ~~chief executive director~~ officer on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit.

B. The effective date of the designation of the new beneficiary is the date the designation is received by the ~~chief executive director~~ officer. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 5-B has been elected, the new beneficiary's benefit must become effective on the same date.

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

- (1) The date of the new beneficiary's death; or
- (2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of ~~subparagraph~~ subparagraphs (1) ~~or~~ and (2).

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C.

Sec. 42. 5 MRSA §18404, sub-§7, ¶A, as enacted by PL 1999, c. 744, §14 and affected by §17, is amended to read:

A. By written certification of the spouse, duly ~~notarized~~ acknowledged and filed with the chief executive officer, on a form provided or specified by

the retirement system, indicating that notice has been received from the qualifying member; or

Sec. 43. 5 MRSA §18404, sub-§7, ¶B, as enacted by PL 1999, c. 744, §14 and affected by §17, is amended to read:

B. When notice has been given but certification by the spouse has not been provided, by written certification of the qualifying member, duly ~~notarized~~ acknowledged and filed with the chief executive officer, on a form provided or specified by the retirement system, indicating that notice has been given to the spouse.

Sec. 44. 5 MRSA §18802-A, sub-§7 is enacted to read:

7. Remote meeting policy. The remote meeting policy in Title 1, section 403-B, subsection 2 may be adopted by the chief executive officer on behalf of the advisory committee.

Sec. 45. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Executive Director of the Maine Public Employees Retirement System" appear or reference is made to that position or those words, those words are amended to read or mean, as appropriate, "Chief Executive Officer of the Maine Public Employees Retirement System" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes. Wherever in the Maine Revised Statutes, Title 5, Part 20, the words "executive director" appear or reference is made to that position within the Maine Public Employees Retirement System, those words are amended to read or mean, as appropriate, "chief executive officer," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 549

H.P. 1452 - L.D. 1947

An Act To Promote Electronic Filing of State Agency and Legislative Committee Publications

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

Sec. 1. 1 MRSA §501-A, sub-§3, as enacted by PL 1997, c. 299, §1, is amended to read:

3. Annual or biennial reports. Immediately upon receipt of any annual or biennial report that is not included in the Maine State Government Annual Report provided for in Title 5, sections 43 to 46, the State Purchasing Agent shall deliver at least ~~55~~ 4 copies of that

annual or biennial report to the State Librarian for exchange and library use. The State Purchasing Agent shall deliver the balance of the number of each such report to the agency that prepared the report.

Sec. 2. 1 MRSA §501-A, sub-§4, as enacted by PL 1997, c. 299, §1, is amended to read:

4. State agency and legislative committee publications. Except as provided in subsection 5, any agency or legislative committee ~~issuing~~ publishing publications, including publications in an electronic format, shall deliver ~~18~~ 4 copies of the publications in the published format to the State Librarian. These copies must be furnished at the expense of the issuing agency. Publications not furnished upon request will be reproduced at the expense of the issuing agency. The agency or committee preparing a publication may determine the date on which a publication may be released, except as otherwise provided by law.

Sec. 3. 1 MRSA §501-A, sub-§5, as enacted by PL 1997, c. 299, §1, is amended to read:

5. Electronic publishing. An agency or committee ~~that electronically publishes information to the public is only~~ required to provide the State Librarian with only one printed copy of an electronically published publication if the agency or committee provides the State Librarian with an electronically published copy for the State Librarian to upload to the online repository maintained by the Maine State Library pursuant to Title 27, section 66 or the agency or committee uploads an electronically published copy to the online repository maintained by the Maine State Library pursuant to Title 27, section 66. An electronically published publication is not required to be provided to the State Librarian if the publication is also published in print or in an electronic format and is provided to the State Librarian in compliance with subsection 4 or the publication is:

A. Designed to provide the public with current information and is subject to frequent additions and deletions, such as current lists of certified professionals, daily updates of weather conditions or fire hazards; or

B. Designed to promote the agency's services or assist citizens in use of the agency's services, such as job advertisements, application forms, advertising brochures, letters and memos.

Sec. 4. 5 MRSA §43, 4th ¶, as repealed and replaced by PL 1975, c. 436, §3, is amended to read:

The Governor shall, no later than December 31st annually, consolidate such reports into a public document entitled "the Maine State Government Annual Report" and shall cause them to be printed and published in convenient form for distribution and sale as a public document entitled "The Maine State Government Annual Report" no later than December 31st published electronically in the online repository maintained by the