

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
S.P. 879 - L.D. 2169

**An Act to Improve the Public Employees Disability Retirement Program by  
Modifying Provisions Controlling the Reduction of Benefits and Clarifying  
Terminology**

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

**Sec. 1. 5 MRSA §17857, sub-§2, ¶D**, as amended by PL 1997, c. 769, §19 and PL 2021, c. 548, §45, is further amended to read:

D. A member who has not completed the service requirements for retirement under a special plan, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, on becoming disabled as defined in section ~~17901~~ 17901-B, subsection 1, or, after September 30, 1989, section 17921, subsection 1, and on becoming reemployed in a position not under a special plan on retirement receives retirement benefits as follows.

- (1) The part of the member's service retirement based on membership service before becoming disabled must be computed according to the formula for computing benefits under the member's previous special plan.
- (2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan must be computed according to the formula for computing benefits under the member's previous special plan.
- (3) If the member is found to be no longer disabled, as defined in section ~~17901~~ 17901-B, subsection 1, or, after September 30, 1989, section 17921, subsection 1, the member may:
  - (a) Return to a position under the member's previous special plan; or
  - (b) Remain in the position that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 17852, subsection 1.
- (4) The chief executive officer may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's

disability in accordance with section 17903 or, after September 30, 1989, section 17926.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph shall cease.

**Sec. 2. 5 MRSA §17901**, as corrected by RR 2023, c. 2, Pt. B, §123, is repealed.

**Sec. 3. 5 MRSA §17901-B** is enacted to read:

**§17901-B. Definitions**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

**1. Disabled.** "Disabled" means mentally or physically incapacitated:

A. To the extent that it is impossible for a person to perform the duties of the person's employment position and the incapacity can be expected to be permanent; and

B. Such that the incapacity will be revealed by medical examination or tests conducted in accordance with section 17903.

**2. Final annual compensation.** "Final annual compensation" means the annual rate of pay of a member, for a position covered by this article, immediately before the termination of the member's employment and the commencement of the member's disability retirement benefit.

**3. Substantially gainful activity.** "Substantially gainful activity" means any combination of activities, tasks or efforts, with any reasonable accommodations, for which the member is qualified by training, education or experience that would generate annual income in the labor market for the member's state of residence in an amount in excess of the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026 or \$35,500 increased as described by this subsection in any subsequent calendar year;

B. The member's average final compensation; and

C. The member's final annual compensation.

The amounts under paragraphs A, B and C are increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

**Sec. 4. 5 MRSA §17903, first ¶**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

The examination or tests to determine whether a member is disabled under section 17904 17901-B, subsection 1 are governed as follows.

**Sec. 5. 5 MRSA §17906, sub-§1**, as amended by PL 2021, c. 548, §29, is repealed.

**Sec. 6. 5 MRSA §17906, sub-§1-A** is enacted to read:

**1-A. Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$35,500 in calendar year 2026 or in any subsequent calendar year exceeds that amount increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year, the disability retirement benefits must be reduced for a one-year period by the excess prorated on a monthly basis over the year.

The chief executive officer shall waive the reduction set forth under this subsection if the person demonstrates that the excess compensation has ceased and that the continuing reduction would cause a hardship.

**Sec. 7. 5 MRSA §17907, sub-§2, ¶B,** as amended by PL 2003, c. 675, §1 and PL 2021, c. 548, §45, is further amended to read:

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

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

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

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

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases;

**Sec. 8. 5 MRSA §17921, sub-§3** is enacted to read:

**3. Final annual compensation.** "Final annual compensation" means the annual rate of pay of a member, for a position covered by this article, immediately before the termination of the member's employment and the commencement of the member's disability retirement benefit.

**Sec. 9. 5 MRSA §17921, sub-§4** is enacted to read:

**4. Substantially gainful activity.** "Substantially gainful activity" means any combination of activities, tasks or efforts, with any reasonable accommodations, for which the member is qualified by training, education or experience that would generate annual income in the labor market for the member's state of residence in an amount in excess of the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026 or \$35,500 increased as described by this subsection in any subsequent calendar year;

B. The member's average final compensation; and

C. The member's final annual compensation.

The amounts under paragraphs A, B and C are increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

**Sec. 10. 5 MRSA §17929, sub-§2, ¶B**, as amended by PL 2021, c. 277, §25 and affected by §45 and amended by c. 548, §45, is further amended by amending subparagraph (1) to read:

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 17806. The disability retirement benefit continues if the person can effectively demonstrate to the chief executive officer 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 ability to perform work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 17806.~~

**Sec. 11. 5 MRSA §17930**, as amended by PL 2025, c. 221, §§27 and 28, is repealed.

**Sec. 12. 5 MRSA §17930-A** is enacted to read:

**§17930-A. Reduction in amount of benefit**

Reduction of disability retirement benefits as the result of a person's receiving compensation from employment or from disability payments under other laws is governed as follows.

**1. Compensation from employment; reduction of benefits required.** The amount of a person's disability retirement benefit must be reduced when the person receives compensation in any year from engaging in any gainful activity or from employment that exceeds the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026, increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year; and

B. The difference between the person's disability retirement benefit for that year and the higher of the person's average final compensation at the time that the person became a recipient of a disability retirement benefit and the person's final annual compensation, each increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

Disability retirement benefits must be reduced by the amount of compensation for gainful activity or employment received in excess of the amount described in paragraph A or B, whichever is applicable, for a one-year period, prorated on a monthly basis over the year.

**2. Reduction for employment; hardship; discontinuance; resumption of benefits; voluntary termination of benefits.** The following provisions apply to the reduction of benefits pursuant to subsection 1.

A. The chief executive officer shall waive the reduction set forth in subsection 1 if the person demonstrates that the excess compensation has ceased and that continuing the reduction would cause a hardship.

B. If the disability retirement benefit payments are eliminated by subsection 1, 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, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is covered by another disability program and 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 officer shall require examinations or tests to determine whether the person is disabled as described in section 17921.

D. At any time before the elimination of disability retirement benefit payments by subsection 1, the person may request that the benefit payments be terminated, and the chief executive officer shall terminate benefit payments at the end of the month in which the request is received.

**3. Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the person for the same disability under the workers' compensation or similar laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

B. The reduction in the disability retirement benefit is governed as follows:

(1) The initial disability retirement benefit must be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average final compensation;

(2) The amount determined by the calculation under subparagraph (1) may not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 17806 must be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C.

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit that is the actuarial equivalent of the person's accumulated contributions at the time of retirement.

D. A lump-sum settlement of benefits that reduces the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) The prorated lump-sum settlement may not include any part of the lump-sum settlement attributable to rehabilitation, attorney's, physicians', nurses', hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) The prorated lump-sum settlement must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

E. Any dispute about amounts paid under the workers' compensation laws or the amount of the lump-sum settlement and its attributions must be determined on a petition by a single member of the Workers' Compensation Board in accordance with Title 39-A. The determination may be appealed under Title 39-A, section 322.

**Sec. 13. 5 MRSA §17932, sub-§3**, as enacted by PL 1989, c. 409, §§8 and 12 and amended by PL 2021, c. 548, §45, is further amended to read:

**3. Termination or reduction in benefits.** At any time before the elimination of disability retirement benefit payments under section ~~17930~~ 17930-A, subsection ~~3 1~~, the person may request that benefit payments be terminated, and the chief executive officer shall terminate benefit payments at the end of the month in which the request is received.

**Sec. 14. 5 MRSA §18462, sub-§2, ¶D**, as corrected by RR 2011, c. 2, §4 and amended by PL 2021, c. 548, §45, is amended to read:

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section ~~18501~~ 18501-B, subsection 1, and on becoming reemployed in a position not under a special plan must on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled must be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan must be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section ~~18501~~ 18501-B, subsection 1, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 18452, subsection 1.

(4) The chief executive officer may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 18503.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph cease.

**Sec. 15. 5 MRSA §18501**, as corrected by RR 2023, c. 2, Pt. B, §150, is repealed.

**Sec. 16. 5 MRSA §18501-B** is enacted to read:

**§18501-B. Definitions**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

**1. Disabled.** "Disabled" means mentally or physically incapacitated:

A. To the extent that it is impossible for a person to perform the duties of the person's employment position and the incapacity can be expected to be permanent; and

B. Such that the incapacity will be revealed by medical examination or tests conducted in accordance with section 18503.

**2. Final annual compensation.** "Final annual compensation" means the annual rate of pay of a member, for a position covered by this article, immediately before the termination of the member's employment and the commencement of the member's disability retirement benefit.

**3. Substantially gainful activity.** "Substantially gainful activity" means any combination of activities, tasks or efforts, with any reasonable accommodations, for which the member is qualified by training, education or experience that would generate annual income in the labor market for the member's state of residence in an amount in excess of the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026 or \$35,500 increased as described by this subsection in any subsequent calendar year;

B. The member's average final compensation; and

C. The member's final annual compensation.

The amounts under paragraphs A, B and C are increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

**Sec. 17. 5 MRSA §18503, first ¶**, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

The examination or tests to determine whether a member is disabled under section ~~18504~~ 18501-B, subsection 1 are governed as follows.

**Sec. 18. 5 MRSA §18506, sub-§1**, as amended by PL 2025, c. 221, §42, is repealed.

**Sec. 19. 5 MRSA §18506, sub-§1-A** is enacted to read:

**1-A. Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$35,500 in calendar year 2026 or in any subsequent calendar year exceeds that amount increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year, the disability retirement benefits must be reduced for a one-year period by the excess prorated on a monthly basis over the year.

The chief executive officer shall waive the reduction set forth under this subsection if the person demonstrates that the excess compensation has ceased and that the continuing reduction would cause a hardship.

**Sec. 20. 5 MRSA §18506, sub-§2, ¶A,** as amended by PL 1993, c. 680, Pt. A, §17, is further amended to read:

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the beneficiary for the same disability under ~~either~~ ~~or both~~ of the following:

(1) The workers' compensation or similar ~~law~~ laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; ~~or.~~

(2) ~~The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement.~~

**Sec. 21. 5 MRSA §18507, sub-§2, ¶B,** as amended by PL 2003, c. 675, §3 and PL 2021, c. 548, §45, is further amended to read:

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

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

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

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

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases.

**Sec. 22. 5 MRSA §18521, sub-§3** is enacted to read:

**3. Final annual compensation.** "Final annual compensation" means the annual rate of pay of a member in a position covered by this article immediately before the termination of the member's employment and the commencement of the disability retirement benefit.

**Sec. 23. 5 MRSA §18521, sub-§4** is enacted to read:

**4. Substantially gainful activity.** "Substantially gainful activity" means any combination of activities, tasks or efforts, with any reasonable accommodations, for which the member is qualified by training, education or experience that would generate annual income on the labor market for the member's state of residence in an amount in excess of the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026 or \$35,500 increased as described by this subsection in any subsequent calendar year;

B. The member's average final compensation; and

C. The member's final annual compensation.

The amounts under paragraphs A, B, and C are increased on January 1st of each calendar year by any percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

**Sec. 24. 5 MRSA §18529, sub-§2, ¶B,** as amended by PL 2021, c. 277, §38 and affected by §45 and amended by c. 548, §45, is further amended by amending subparagraph (1) to read:

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity ~~that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 18407.~~ The disability retirement benefit continues if the person can effectively demonstrate to the chief executive officer that the person is actively seeking work. ~~For purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.~~

**Sec. 25. 5 MRSA §18530,** as amended by PL 2025, c. 221, §§44 and 45 and c. 270, §4 and affected by §5, is repealed.

**Sec. 26. 5 MRSA §18530-A** is enacted to read:

**§18530-A. Reduction in amount of benefit**

**1. Compensation from employment; reduction of benefits required.** The amount of a person's disability retirement benefit must be reduced when the person receives compensation in any year from engaging in any gainful activity or from employment that exceeds the greater of:

A. Thirty-five thousand five hundred dollars in calendar year 2026, increased on January 1st of each calendar year by the percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year; and

B. The difference between the person's disability retirement benefit for that year and the higher of the person's average final compensation at the time that the person became a recipient of a disability retirement benefit and the person's final annual compensation, each increased on January 1st of each calendar year by the percentage increase in the Consumer Price Index during the 12 months ending on December 31st of the prior calendar year.

Disability retirement benefits must be reduced by the amount of compensation for gainful activity or employment received in excess of the amount described in paragraph A or B, whichever is applicable, for a one-year period, prorated on a monthly basis over the year.

**2. Reduction for employment; hardship; discontinuance; resumption of benefits; voluntary termination of benefits.** The following provisions apply to the reduction of benefits pursuant to subsection 1.

A. The chief executive officer shall waive the reduction set forth in subsection 1 if the person demonstrates that the excess compensation has ceased and that continuing the reduction would cause a hardship.

B. If the disability retirement benefit payments are eliminated by subsection 1, 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 18527. If, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is covered by another disability program and 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 officer shall require examinations or tests to determine whether the person is disabled as described in section 18521.

D. At any time before the elimination of disability retirement benefit payments by subsection 1, the person may request that the benefit payments be terminated, and the chief executive officer shall terminate benefit payments at the end of the month in which the request is received.

**3. Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefits payable under this article must be reduced by any amount received by the person for the same disability under the workers' compensation or similar laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

B. The reduction in the disability benefit is governed as follows:

(1) The initial disability retirement benefit must be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average final compensation;

(2) The amount determined by the calculation under subparagraph (1) may not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 18407 must be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C.

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit that is the actuarial equivalent of the person's accumulated contributions at the time of retirement.

D. A lump-sum settlement of benefits that reduces the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) The prorated lump-sum settlement may not include any part of the lump-sum settlement attributable to rehabilitation, attorney's, physicians', nurses', hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) The prorated lump-sum settlement must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

E. Any dispute about amounts paid or payable under the workers' compensation laws or the amount of the lump-sum settlement and its attributions must be determined on petition by a single member of the Workers' Compensation Board in accordance with Title 39-A. The determination may be appealed under Title 39-A, section 322.

**Sec. 27. 5 MRSA §18532, sub-§3**, as enacted by PL 1989, c. 409, §§11 and 12 and amended by PL 2021, c. 548, §45, is further amended to read:

**3. Termination or reduction in benefits.** At any time before the elimination of disability retirement benefit payments under section ~~18530~~ 18530-A, subsection ~~3~~ 1, the person may request that benefit payments be terminated, and the chief executive officer shall terminate benefit payments at the end of the month in which the request is received.

**Sec. 28. Existing debt due to excess compensation before effective date of this Act.** An individual who is required to reimburse the Maine Public Employees Retirement System for any excess payments due to the receipt of excess compensation from employment under the Maine Revised Statutes, Title 5, section 17906, subsection 1; section 17930; section 18506, subsection 1; and section 18530 as of the effective date of this Act is no longer obligated to reimburse the Maine Public Employees Retirement System for that debt beginning on the effective date of this Act.