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An Act To Amend the 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-§11-A is enacted to read:

11-A. Medical provider. "Medical provider" means a physician or clinical psychologist.

Sec. 2. 3 MRSA §734, as amended by PL 2007, c. 491, §12, is further amended to read:

§ 734. Medical board

A medical board of the other programs of the Maine Public Employees Retirement System established in Title 5, section 17106, subsection 1 is the medical board of the Legislative Retirement Program. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the executive director its conclusions and recommendations upon all the matters referred to it. The board of trustees may designate other ~~physicians~~medical providers to provide medical consultation on legislative disability cases.

Sec. 3. 3 MRSA §853, as amended by PL 2007, c. 491, §27, is further amended to read:

§ 853. Disability retirement

Any member who becomes disabled while in service may receive a disability retirement allowance on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article ~~33~~A.

Sec. 4. 4 MRSA §1201, sub-§12-A is enacted to read:

12-A. Medical provider. "Medical provider" means a physician or clinical psychologist.

Sec. 5. 4 MRSA §1234, as amended by PL 2007, c. 491, §38, is further amended to read:

§ 1234. Medical board

A medical board of the other programs of the Maine Public Employees Retirement System established in section 17106, subsection 1 is the medical board of the Judicial Retirement Program. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the Supreme Judicial Court its conclusions and recommendations upon all the matters referred to it. The board of trustees may designate other ~~physicians~~medical providers to provide medical consultation on judicial disability cases.

Sec. 6. 4 MRSA §1353, sub-§1, as amended by PL 1991, c. 887, §1 and PL 2007, c. 58, §3, is further amended to read:

1. Conditions. Any member who becomes disabled while in service may receive a disability retirement allowance by order of at least 5 Justices of the Supreme Judicial Court or upon written application to the executive director, review and report of the application by the medical board and approval of that application by at least 5 of the Justices of the Supreme Judicial Court if that member is mentally or physically incapacitated to the extent that it is impossible for that member to perform the duties as a judge and the incapacity is expected to be permanent, as shown by medical examination or tests. A qualified physician medical provider mutually agreed upon by the executive director and member shall conduct the examinations or tests at an agreed upon place, and the costs must be paid by the Maine Public Employees Retirement System.

Sec. 7. 4 MRSA §1353, sub-§4, ¶C, as amended by PL 2007, c. 491, §50, is further amended to read:

C. The executive director may require the beneficiary to undergo annual medical examinations or tests for the purpose of determining whether the beneficiary is incapacitated. These examinations or tests must be conducted by a qualified physician medical provider, mutually agreed upon by the executive director and beneficiary, at a place also mutually agreed upon, and the costs of the examination or tests must be paid by the Maine Public Employees Retirement System. If the beneficiary refuses to submit to an examination or tests, the beneficiary's disability allowance ceases until the beneficiary agrees to the examination or tests. If the beneficiary's refusal continues for one year, all rights to any further benefits under this section terminate.

Sec. 8. 5 MRSA §17001, sub-§19-A is enacted to read:

19-A. Medical provider. "Medical provider" means a physician or clinical psychologist.

Sec. 9. 5 MRSA §17053, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§ 17053. Exemption from taxation

The money in the various funds created by this Part and any property owned by the retirement system are exempt from any state, county or municipal tax in the State.

Sec. 10. 5 MRSA §17102, sub-§1, ¶E, as amended by PL 2007, c. 491, §75, is further amended to read:

E. A person who is a member or retired member of the Participating Local District Retirement Program of the retirement system through a participating local district and who is appointed by the governing body of the Maine Municipal Association.

Sec. 11. 5 MRSA §17103, sub-§11, ¶B, as amended by PL 1997, c. 651, §3, is further amended to read:

B. Any proposed legislation amending the retirement system law that the board recommends to improve the retirement system. The joint standing committee of the Legislature having jurisdiction over public employee retirement matters may submit legislation required to implement recommendations made pursuant to this paragraph;

Sec. 12. 5 MRSA §17103, sub-§13, as enacted by PL 1993, c. 410, Pt. L, §22 and amended by PL 2007, c. 58, §3, is repealed and the following enacted in its place:

13. Budget. By June 15th, annually, the board shall adopt an operating budget for the subsequent fiscal year.

Sec. 13. 5 MRSA §17106, sub-§1, as amended by PL 2009, c. 322, §6, is further amended to read:

1. Establishment. The board shall designate a medical board to be composed of at least 3 physicians~~medical providers~~ not eligible to participate in any of the retirement programs of the retirement system. The board shall make a good faith effort to appoint physicians~~medical providers~~ to the medical board who are from those fields of ~~medicine~~within~~concerning~~ which the Maine Public Employees Retirement System receives the greatest number of applications for disability retirement benefits.

Sec. 14. 5 MRSA §17106, sub-§2, as amended by PL 1995, c. 643, §4, is further amended to read:

2. Other medical providers. If determined advisable by the board, the board may designate other physicians~~medical providers~~ to provide medical consultation on disability cases.

Sec. 15. 5 MRSA §17106, sub-§3, as amended by PL 2009, c. 322, §6, is further amended to read:

3. Powers and duties. The medical board is advisory only to the retirement system. The medical board or other physicians~~medical providers~~ designated by the board shall review the file of an applicant for disability retirement and:

- A. Recommend an additional medical review in those instances where there are conflicting medical opinions;
- B. Recommend additional medical tests to be performed on an applicant to obtain objective evidence of a permanent disability;
- C. Assist the executive director in determining if a disability review of a recipient of a disability allowance is warranted;
- D. Provide a written report of its analysis of how the applicant's medical records do or do not demonstrate the existence of physical or mental functional limitations entitling an applicant to benefits under chapter 423, subchapter 5, articles 3 and 3-A, or chapter 425, subchapter 5, articles 3 or 3-A; and
- E. Advise the retirement system whether there are medical indications that a person who is the recipient of a disability retirement benefit under chapter 423, subchapter 5, article 3-A or chapter 425, subchapter 5, article 3-A should not engage in a rehabilitation program or whether a recipient is too severely disabled to benefit from rehabilitation in accordance with the purposes of chapter 423, subchapter 5, article 3-A or chapter 425, subchapter 5, article 3-A.

Sec. 16. 5 MRSA §17106-A, sub-§5, as enacted by PL 2009, c. 322, §7, is amended to read:

5. Investigation. The joint standing committee of the Legislature having jurisdiction over ~~labor~~public employee retirement matters shall monitor the compliance of the retirement system and all involved parties with regard to the use of hearing officers and the independence of hearing officers in the decision-making process. The joint standing committee of the Legislature having jurisdiction over ~~labor~~public employee retirement matters may request the Attorney General to conduct an investigation if a complaint is made by a hearing officer or any participating party regarding the independence of the hearing process.

Sec. 17. 5 MRSA §17106-A, sub-§6, as enacted by PL 2009, c. 322, §7, is amended to read:

6. Engagement and termination. The board shall engage only qualified hearing officers, who must be monitored by the board. A hearing officer may be terminated for misconduct. Retaliatory action of any kind, including reprimand or termination, may not be taken against a hearing officer on the basis of that hearing officer's having issued decisions contrary to the decision of the executive director. In the event of termination, the retirement system shall set forth in writing the basis for the termination, the propriety of which may then be considered by the joint standing committee of the Legislature having jurisdiction over ~~labor~~public employee retirement matters pursuant to subsection 5.

Sec. 18. 5 MRSA §17152, first ¶, as amended by PL 2013, c. 602, Pt. A, §1, is further amended to read:

The board may combine the assets of the State Employee and Teacher Retirement Program with the assets of other retirement programs of the retirement system for investment purposes. The assets of the State Employee and Teacher Retirement Program may not be combined with the assets of another retirement program for benefit purposes or for administrative expenses. All of the assets of the retirement system must be credited according to the purpose for which they are held among the several funds created by this section, namely:

Sec. 19. 5 MRSA §17760, sub-§6, ¶D is enacted to read:

D. If funds are appropriated under paragraph B to subsidize the purchase of service credit for specific members, and those members either decline to purchase service credit or are able to purchase the service credit without subsidy, the unused funds must be applied in accordance with paragraph C.

Sec. 20. 5 MRSA §17902, sub-§1, ¶A, as enacted by PL 1995, c. 643, §5, is amended to read:

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter H-A 2-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a ~~physieian~~medical provider or ~~physieians~~medical providers qualified to review the case by specialty or experience and to whom the applicant is not known.

Sec. 21. 5 MRSA §17903, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Agreed upon medical provider. The examination or tests ~~shall~~must be conducted by a qualified ~~physician~~medical provider mutually agreed upon by the executive director and member claiming to be disabled.

Sec. 22. 5 MRSA §17910, sub-§2, as enacted by PL 1985, c. 801, §§5 and 7 and amended by PL 2007, c. 58, §3, is further amended to read:

2. Dispute over mental or physical capacity. In the event there is a dispute between the beneficiary and the former employer over the beneficiary's mental or physical capacity to perform a specific job, at the option of the beneficiary that dispute ~~shall~~must be resolved by the majority decision of 3 ~~physicians~~medical providers, one appointed and reimbursed by the beneficiary, one appointed and reimbursed by the employer and one appointed by the executive director and reimbursed by the Maine Public Employees Retirement System.

Sec. 23. 5 MRSA §17925, sub-§1, ¶A, as amended by PL 2015, c. 392, §1, is further amended to read:

A. The executive director shall obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a ~~physician~~medical provider or ~~physicians~~medical providers qualified to review the case by specialty or experience and to whom the applicant is not known.

Sec. 24. 5 MRSA §17926, sub-§1, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

1. Agreed upon medical provider. The examinations or tests ~~shall~~must be conducted by a qualified ~~physician~~ and, when appropriate, a qualified ~~psychologist~~medical provider mutually agreed upon by the executive director and the member claiming to be disabled.

Sec. 25. 5 MRSA §17928, as amended by PL 1997, c. 384, §8, is further amended to read:

§ 17928. Computation of benefit

Until July 1, 1996, when a member qualified under section 17924 retires, after approval for disability retirement by the executive director in accordance with section 17925, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation, calculated, for this section only, without regard to section 17001, subsection 13, paragraph E. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the

disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered, as to qualification for benefits, under section 17924 as written prior to its amendment by Public Law 1991, chapter 887, section 7, qualifies for a disability retirement benefit on meeting the requirements of section 17924, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation, calculated, for this section only, without regard to section 17001, subsection 13, paragraph E.

Sec. 26. 5 MRSA §17932, sub-§2, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

2. Dispute over mental or physical capacity. If there is a dispute between the person and the former employer over the person's mental or physical capacity to perform a specific job, at the option of the person that dispute ~~shall~~must be resolved by a majority of 3 ~~physieians~~medical providers, one appointed and reimbursed by the person, one appointed and reimbursed by the employer and one appointed and reimbursed by the retirement system. If the 3 ~~physieians~~medical providers resolve the dispute in favor of the person, the former employer ~~shall~~must reimburse the ~~physieian~~medical provider appointed by the person.

Sec. 27. 5 MRSA §18053-A is enacted to read:

§ 18053-A. Funds

All assets in the group life insurance program may be combined for investment purposes. The assets attributable to employers of state employees, teachers, Legislators and judges who are participants in the group life insurance program may not be combined with the assets attributable to other group life insurance participants for benefit purposes.

Sec. 28. 5 MRSA §18060, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 29. 5 MRSA §18502, sub-§1, ¶A, as enacted by PL 1995, c. 643, §17, is amended to read:

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter ~~H-A2-A~~. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a ~~physieian~~medical provider or ~~physieians~~medical providers qualified to review the case by specialty or experience and to whom the applicant is not known.

Sec. 30. 5 MRSA §18503, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

1. Agreed upon medical provider. The examination or tests ~~shall~~must be conducted by a qualified ~~physician~~medical provider mutually agreed upon by the executive director and member claiming to be disabled.

Sec. 31. 5 MRSA §18525, sub-§1, ¶A, as amended by PL 1995, c. 643, §21, is further amended to read:

A. The executive director shall obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter H-A2-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a ~~physician~~medical provider or ~~physicians~~medical providers qualified to review the case by specialty or experience and to whom the applicant is not known.

Sec. 32. 5 MRSA §18526, sub-§1, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

1. Agreed upon medical provider. The examinations or tests ~~shall~~must be conducted by a qualified ~~physician and, when appropriate, a qualified psychologist~~medical provider mutually agreed upon by the executive director and the member claiming to be disabled.

Sec. 33. 5 MRSA §18528, as amended by PL 1997, c. 384, §14, is further amended to read:

§ 18528. Computation of benefit

When a member qualified under section 18524 retires, after approval for disability retirement by the executive director in accordance with section 18525, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation, calculated, for this section only, without regard to section 17001, subsection 13, paragraph E. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered, as to qualification for benefits, under section 18524 as written prior to its amendment by Public Law 1991, chapter 887, section 15, qualifies for a disability retirement benefit on meeting the requirements of section 18524, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to $66\frac{2}{3}$ % of the member's average final compensation, calculated, for this section only, without regard to section 17001, subsection 13, paragraph E.

Sec. 34. 5 MRSA §18532, sub-§2, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

2. Dispute over mental or physical capacity. If there is a dispute between the person and the former employer over the person's mental or physical capacity to perform a specific job, at the option of the person that dispute ~~shall~~must be resolved by a majority of 3 ~~physieians~~medical providers, one appointed and reimbursed by the person, one appointed and reimbursed by the employer and one appointed and reimbursed by the retirement system. If the 3 ~~physieians~~medical providers resolve the dispute in favor of the person, the former employer ~~shall~~must reimburse the ~~physician~~medical provider appointed by the person.

Sec. 35. 5 MRSA §18653-A is enacted to read:

§ 18653-A. Funds

All assets in the group life insurance program may be combined for investment purposes. The assets attributable to employers of participating local district participants in the group life insurance program may not be combined with the assets attributable to other group life insurance participants for benefit purposes.

Sec. 36. 5 MRSA §18660, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 37. PL 2015, c. 267, Pt. A, §63, under the caption “RETIREMENT SYSTEM, MAINE PUBLIC EMPLOYEES” in the first occurrence of “Retirement System - Subsidized Military Service Credit Z094” is amended by amending the initiative to read:

Initiative: Provides funds to allow for 2 members who the Maine Public Employees Retirement System determined were qualified to purchase military service credit at a subsidized rate pursuant to the Maine Revised Statutes, Title 5, section 17760 in 2004. If the 2 members for whom funds are appropriated under this section either decline to purchase service credit or are able to purchase the service credit without subsidy, the unused funds must be applied in accordance with Title 5, section 17760, subsection 6, paragraph C.

Sec. 38. PL 2015, c. 267, Pt. A, §63, under the caption “RETIREMENT SYSTEM, MAINE PUBLIC EMPLOYEES” in the 2nd occurrence of “Retirement System - Subsidized Military Service Credit Z094” is amended by amending the initiative to read:

Initiative: Provides funds to allow for 3 members who the Maine Public Employees Retirement System determined were qualified to purchase military service credit at a subsidized rate pursuant to the Maine Revised Statutes, Title 5, section 17760 in 2005, 2012 and 2013. If the 3 members for whom funds are appropriated under this section either decline to purchase service credit or are able to purchase the service credit without subsidy, the unused funds must be applied in accordance with Title 5, section 17760, subsection 6, paragraph C.

Sec. 39. Applicability. The provisions of sections 25 and 33 of this Act apply to benefits paid to disability retirement benefit recipients who are found eligible for those benefits after the effective date of this Act.

SUMMARY

This bill makes the following changes to the laws governing the Maine Public Employees Retirement System:

1. It replaces the term "physician" with "medical provider" and defines "medical provider" to include physicians and clinical psychologists, which permits clinical psychologists to be included in the composition of the medical board and for other medical consultations;

2. It clarifies that the board member who represents participating local districts may be either an active or retired member.

3. It clarifies the basis on which disability benefits for members of the Legislative Retirement Program are determined;

4. It clarifies that any property owned by the retirement system is tax exempt;

5. It gives the joint standing committee of the Legislature having jurisdiction over public employee retirement matters the authority to report out legislation as recommended by the board of trustees to improve the retirement system;

6. It replaces obsolete language regarding the retirement system budgeting process;

7. It corrects a reference to the legislative jurisdiction that pertains to matters relating to the retirement system;

8. It clarifies the treatment of retirement system assets;

9. It clarifies the disposition of funds appropriated to subsidize the purchase of military service credit for specific members who subsequently decline to purchase service credit or are able to purchase service credit without subsidy;

10. It changes the manner in which disability retirement benefits are calculated for less than full-time members;

11. It clarifies that assets of the group life insurance program may only be used for benefits for participants of employers for which the assets are attributable; and

12. It removes obsolete language.