

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Clarify the Retirement Presumption under the Maine Workers' Compensation Act of 1992**

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

**Sec. 1. 39-A MRS §223, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Presumption.** An employee who terminates active employment and is receiving nondisability pension or retirement benefits under either a private or governmental pension or retirement program, including old-age benefits under the United States Social Security Act, 42 United States Code, Sections 301 to 1397f, that was paid by or on behalf of an employer from whom weekly benefits under this Act are sought is presumed not to have a loss of earnings or earning capacity as the result of compensable injury or disease under this Act. This presumption may be rebutted only by a preponderance of evidence that the employee ~~is unable, terminated active employment at least in part because of a work-related disability, to perform work suitable to the employee's qualifications, including training or experience. This standard of disability supersedes other applicable standards used to determine disability under this Act.~~

### **SUMMARY**

Once an individual receiving workers' compensation benefits retires and is receiving retirement benefits, there is a presumption that the individual is no longer eligible for workers' compensation benefits related to loss of earnings or earning capacity. Under current law, this presumption may be rebutted by evidence that the individual is unable to perform suitable work because of the work-related disability.

This bill lowers the evidentiary burden on the retired individual collecting workers' compensation benefits by providing that evidence that the individual's retirement was due at least in part to a work-related disability is sufficient to continue eligibility for workers' compensation benefits related to loss of earnings or earning capacity.