

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 1306 - L.D. 1947

**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 §805-A, sub-§1, ¶B, as enacted by PL 2007, c. 137, §3, is amended to read:

B. Payment must be made after termination of service and not ~~less than 22 days nor~~ more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

Sec. 2. 4 MRSA §1201, sub-§8-A is enacted to read:

8-A. Duly acknowledged. "Duly acknowledged" means acknowledged pursuant to chapter 39 or through an electronic identification process designated in a rule established by the board of trustees.

Sec. 3. 4 MRSA §1201, sub-§19-A is enacted to read:

19-A. Survive or surviving. "Survive" or "surviving" means to live, by clear and convincing evidence, for at least 120 hours after the death of the qualifying member or family member, as applicable.

Sec. 4. 4 MRSA §1201, sub-§20, as enacted by PL 1989, c. 133, §20, is amended to read:

20. Surviving spouse. "Surviving spouse" means the spouse alive at the time of who survives the death of the member or former member.

Sec. 5. 4 MRSA §1305-A, sub-§1, ¶B, as enacted by PL 2007, c. 137, §7, is amended to read:

B. Payment must be made after termination of service and not ~~less than 22 days nor~~ more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

Sec. 6. 4 MRSA §1353, sub-§1-A, ¶A, as amended by PL 2007, c. 491, §49, is further amended to read:

A. A member with less than 5 years of ~~continuous~~ creditable service ~~immediately preceding an application for a disability allowance~~ that member's last date of service is not eligible for ~~that a~~ disability retirement allowance if that disability is the result of a physical or mental condition ~~which~~ that existed prior to the person's latest membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty.

Sec. 7. 4 MRSA §1353, sub-§5, as amended by PL 2007, c. 491, §51, is further amended to read:

5. Earnings. The chief executive director officer may require each disability beneficiary to submit an annual statement of earnings received from any gainful occupation during that year. For any year during which the total of those earnings and the disability allowance exceeds the current salary of the position that the disabled beneficiary last held, the excess must be deducted from any disability retirement allowance payments made to the beneficiary ~~during the next calendar year. These deductions are prorated on a monthly basis, in an equitable manner prescribed by the board of trustees, over the year or part of the year for which benefits are received~~ in accordance with Title 5, section 17054, subsection 3. The beneficiary is responsible for reimbursing the Maine Public Employees Retirement System for any excess earnings not so deducted.

If a beneficiary does not submit an earnings statement within 30 days of receiving a request from the chief executive director officer, the disability retirement allowance is discontinued until the statement is submitted. If the statement is not submitted within one year of receiving a request, all the beneficiary's rights to any further benefits cease.

Sec. 8. 4 MRSA §1357, sub-§2, as corrected by RR 2021, c. 2, Pt. A, §2, is amended to read:

2. Optional methods of payment. In lieu of payment under subsection 1, a qualifying member may elect to receive a regular retirement allowance under one of the options set out in this subsection. The optional allowance is a reduced allowance computed actuarially on the basis of the option selected.

The qualifying member may elect one of the options by written request to and approval of the executive director prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

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

A. Under Option 1, the qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary that the qualifying member has nominated by written designation duly ~~notarized~~ acknowledged and filed with the chief executive director officer on a form provided or specified by the Maine

Public Employees Retirement System or, if no one has been nominated as beneficiary, to the qualifying member's estate.

B. Under Option 2, 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 that the qualifying member has nominated by written designation duly ~~notarized~~ acknowledged and filed with the chief executive ~~director~~ officer at the time of retirement on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member.

C. Under Option 3, 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 the amount for the life of the beneficiary that the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive ~~director~~ officer at the time of retirement on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member.

D. Under 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 paragraph B or C 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 of trustees, 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 Maine Public Employees Retirement System.

E. Under 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 of trustees, 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 Maine Public Employees Retirement System.

F. Under 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 Maine Public Employees 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.

G. Under 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 Maine Public Employees 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.

H. Under Option 8, 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 paragraph B or C payable to the beneficiary, who must be the sole beneficiary, that the member has designated by written designation, duly acknowledged and filed with the chief executive officer on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member 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. 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. 9. 5 MRSA §17001, sub-§12-B is enacted to read:

12-B. Duly acknowledged. "Duly acknowledged" means acknowledged pursuant to Title 4, chapter 39 or through an electronic identification process designated in a rule established by the board.

Sec. 10. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 2017, c. 392, §1, is further amended to read:

B. For members other than members of the Participating Local District Retirement Program under chapters 425 and 427, "earnable compensation" does not include:

- (1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year

immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member; or

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave; ~~or.~~

~~(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered.~~

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. 11. 5 MRSA §17001, sub-§13, ¶B-1, as enacted by PL 2017, c. 392, §2, is repealed and the following enacted in its place:

B-1. "Earnable compensation" also does not include:

(1) Any exclusion in the plan provisions adopted by rule pursuant to section 18801; or

(2) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered.

Sec. 12. 5 MRSA §17001, sub-§13, ¶E, as enacted by PL 1991, c. 619, §2 and affected by §18, is amended to read:

E. "Earnable compensation" of a part-time, seasonal or temporary employee is the sum of amounts computed under paragraphs A, B, C and D adjusted to reflect the wages or salary that the member would have been paid if the member had been employed, at the member's rate of pay, for the number of days or hours that a permanent full-time employee of the same employer would have been employed unless the board has established by rule a benefit computation method that otherwise prevents overlapping reduction of benefits for part-time, seasonal or temporary employees due to working less than full-time and earning less than full-time equivalent compensation.

Sec. 13. 5 MRSA §17001, sub-§40-A is enacted to read:

40-A. Survive or surviving. "Survive" or "surviving" means to live, by clear and convincing evidence, for at least 120 hours after the death of the qualifying member or family member, as applicable.

Sec. 14. 5 MRSA §17001, sub-§41, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

41. Surviving spouse. "Surviving spouse" means the spouse ~~alive at the time of~~ who survives the death of the member or former member.

Sec. 15. 5 MRSA §17001, sub-§42, ¶B, as amended by PL 2021, c. 548, §7, is further amended to read:

B. Any employee of a public school or 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 in this subsection a member of the State Employee and Teacher Retirement Program of the retirement system 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 in this subsection a member of the State Employee and Teacher Retirement Program of the retirement system may not be considered a teacher for purposes of this Part;

Sec. 16. 5 MRSA §17054, sub-§3, as amended by PL 2011, c. 606, §9 and PL 2021, c. 548, §45, is further amended to read:

3. Recovery of overpayments by the retirement system. Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions resulted from a mistake of or incorrect information provided by an employee of the retirement system, or a mistake of the retiree or the recipient of the benefit or life insurance benefit, a penalty or interest may not be assessed by the retirement system. In all cases of recovery of overpayments through the reduction of a retirement benefit, whether with or without the assessment of interest by the retirement system, the recovery practices must be reasonable and consider the personal economic stability of the retiree in the establishment of the recovery schedule. The chief executive officer may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the chief executive officer makes a decision to recover any amounts under this subsection, other than by an action in a court of competent jurisdiction, that decision is subject to appeal under section 17451.

Employers are responsible for enrolling employees in the correct retirement plan. The retirement system shall provide training, education and information to assist employers in the correct enrollment of employees. If an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits. The State is not responsible for the employer contribution when the employer is a school district, municipality or county and those contributions and assessed interest, if applicable, must be paid to the retirement system by the school district, municipality or county;

Sec. 17. 5 MRSA §17107, sub-§2, ¶F, as amended by PL 2007, c. 491, §82 and amended by PL 2023, c. 412, Pt. D, §3, is repealed.

Sec. 18. 5 MRSA §17705-A, sub-§1, ¶B, as enacted by PL 2007, c. 137, §11, is amended to read:

B. Payment must be made after termination of service and not ~~less than 22 days nor~~ more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

Sec. 19. 5 MRSA §17804, sub-§2, as corrected by RR 2023, c. 2, Pt. B, §109, is amended to read:

2. Option 1. The qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer on a form provided or specified by the retirement system or, if no one has been nominated as beneficiary, to the qualifying member's estate.

Sec. 20. 5 MRSA §17804, sub-§3, as corrected by RR 2023, c. 2, Pt. B, §110, is amended to read:

3. Option 2. 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 the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer at the time of retirement on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member.

Sec. 21. 5 MRSA §17804, sub-§4, as corrected by RR 2023, c. 2, Pt. B, §111, is amended to read:

4. Option 3. 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 the amount for the life of the beneficiary the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer at the time of retirement on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member.

Sec. 22. 5 MRSA §17804, sub-§5-E, as amended by PL 2001, c. 118, §4, is further amended to read:

5-E. Option 8. 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, who must be the sole beneficiary, that the member has designated by written designation, duly acknowledged and filed with the chief executive officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member 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. 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. 23. 5 MRSA §17851, sub-§16, as enacted by PL 2021, c. 548, §28, is amended 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; or section 17851-A or section 17851-B or 17851-C 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. 24. 5 MRSA §17859, sub-§1, as amended by PL 2019, c. 436, §1, is further amended to read:

1. Restoration to service. Any state employee or teacher who has reached normal retirement age may be restored to service. The decision to hire a retired state employee or retired teacher under this section is at the discretion of the appointing authority. The retired state employee or retired teacher ~~must have had a bona fide termination of~~ shall terminate employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

Sec. 25. 5 MRSA §17859, sub-§1-A, as amended by PL 2019, c. 436, §1, is further amended by amending the first blocked paragraph to read:

The retired classroom-based employee ~~must have had a bona fide termination of~~ shall terminate employment in accordance with state and federal laws and rules, may not return to employment after retirement with the same employer for at least 30 calendar days after the termination of employment and may not return to employment before the effective date of the person's retirement.

Sec. 26. 5 MRSA §17924, sub-§2, as amended by PL 2009, c. 322, §8, is further amended to read:

2. Exception. A member with fewer than 5 years of ~~continuous~~ creditable service preceding that member's last date in service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 27. 5 MRSA §17930, sub-§2, ¶A, as amended by PL 2001, c. 443, §2 and affected by §7, is further amended to read:

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 in accordance with section 17054, subsection 3;~~

Sec. 28. 5 MRSA §17930, sub-§3, ¶A, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

A. The disability or service retirement benefits ~~will~~ must be reduced ~~during the next calendar year~~ by the amount that the total compensation exceeds the adjusted final compensation in accordance with section 17054, subsection 3;

Sec. 29. 5 MRSA §18057, sub-§1, as amended by PL 1991, c. 480, §5, is further amended to read:

1. Designated beneficiary. First, to the surviving beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

Sec. 30. 5 MRSA §18057, sub-§3, as amended by PL 2009, c. 515, §1 and affected by §3, is further amended to read:

3. Children. Fourth, if no one qualifies under subsection 1, 2 or 2-A, to the surviving child or children of the employee and descendants of deceased children by representation.

Sec. 31. 5 MRSA §18057, sub-§6, as amended by PL 2009, c. 515, §1 and affected by §3, is further amended to read:

6. Next of kin. Sixth, if no one qualifies under subsection 1, 2, 2-A, 3 or 4, to other surviving next of kin of the employee entitled under the laws of domicile of that employee at the time of the employee's death.

Sec. 32. 5 MRSA §18201, sub-§5 is enacted to read:

5. Clarification of certified actions. The chief administrative officer of the participating local district may clarify in writing any ambiguity in the certified action, and the retirement system may rely on that clarification.

Sec. 33. 5 MRSA §18202, sub-§4 is enacted to read:

4. Clarification of certified actions. The chief administrative officer of the participating local district may clarify in writing any ambiguity in the certified action, and the retirement system may rely on that clarification.

Sec. 34. 5 MRSA §18203, sub-§4 is enacted to read:

4. Clarification of certified actions. The chief administrative officer of the participating local district may clarify in writing any ambiguity in the certified action, and the retirement system may rely on that clarification.

Sec. 35. 5 MRSA §18306-A, sub-§1, ¶B, as enacted by PL 2007, c. 137, §21, is amended to read:

B. Payment must be made after termination of service and not ~~less than 22 days nor~~ more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears;

Sec. 36. 5 MRSA §18363, sub-§2, ¶B, as enacted by PL 2019, c. 459, §3, is amended to read:

B. Payment may be made to the retirement system by a single direct payment or by annual direct payments in accordance with section ~~17704~~ 18301, subsection 4.

Sec. 37. 5 MRSA §18404, sub-§2, as corrected by RR 2023, c. 2, Pt. B, §137, is amended to read:

2. Option 1. 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 excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent amount to the accumulated contributions, paid in a lump sum to the beneficiary the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer on a form provided or specified by the retirement system or, if no one has been nominated as beneficiary, to the qualifying member's estate. Contributions deducted from the compensation of a teacher before July 1, 1947 or required of a teacher for service credit before July 1, 1947 may not be included in the accumulated contributions.

Sec. 38. 5 MRSA §18404, sub-§3, as corrected by RR 2023, c. 2, Pt. B, §138, is amended to read:

3. Option 2. 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 the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer at the time of retirement on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member.

Sec. 39. 5 MRSA §18404, sub-§4, as corrected by RR 2023, c. 2, Pt. B, §139, is amended to read:

4. Option 3. 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 the amount for the life of the beneficiary the qualifying member has nominated by written designation duly acknowledged and filed with the chief executive officer at the time of retirement on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member.

Sec. 40. 5 MRSA §18404, sub-§5-E, as amended by PL 2001, c. 118, §8, is further amended to read:

5-E. Option 8. 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, who must be the sole beneficiary, that the member has designated by written designation, duly acknowledged and filed with the chief executive officer on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member 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. 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. 41. 5 MRSA §18504, sub-§2, as amended by PL 2009, c. 322, §9, is further amended to read:

2. Exception. A member with fewer than 5 years of ~~continuous~~ creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 42. 5 MRSA §18506, sub-§1, ¶A, as amended by PL 2001, c. 443, §3 and affected by §7, is further amended to read:

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~~ in accordance with section 17054, subsection 3; and

Sec. 43. 5 MRSA §18524, sub-§2, as amended by PL 2009, c. 322, §11, is further amended to read:

2. Exception. A member with fewer than 5 years of ~~continuous~~ creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

Sec. 44. 5 MRSA §18530, sub-§2, ¶A, as amended by PL 2001, c. 443, §4 and affected by §7, is further amended to read:

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~~ in accordance with section 17054, subsection 3;

Sec. 45. 5 MRSA §18530, sub-§3, ¶A, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

A. The disability or service retirement benefits ~~will~~ must be reduced ~~during the next calendar year~~ by the amount that the total compensation exceeds the adjusted final compensation in accordance with section 17054, subsection 3;

Sec. 46. 5 MRSA §18657, sub-§1, as amended by PL 1991, c. 480, §10, is further amended to read:

1. Designated beneficiary. First, to the surviving beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

Sec. 47. 5 MRSA §18657, sub-§3, as amended by PL 2009, c. 515, §2 and affected by §3, is further amended to read:

3. Children. Fourth, if no one qualifies under subsection 1, 2 or 2-A, to the surviving child or children of the employee and descendants of deceased children by representation.

Sec. 48. 5 MRSA §18657, sub-§6, as amended by PL 2009, c. 515, §2 and affected by §3, is further amended to read:

6. Next of kin. Sixth, if no one qualifies under subsection 1, 2, 2-A, 3 or 4, to other surviving next of kin of the employee entitled under the laws of domicile of that employee at the time of the employee's death.

Sec. 49. 5 MRSA §18662, sub-§1, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 50. 5 MRSA §18802-A, sub-§5, ¶A, as amended by PL 2003, c. 387, §13, is further amended to read:

A. ~~Seven~~ Six voting members, including at least 2 labor organization representatives and 2 participating local district representatives, constitute a quorum for the transaction of any business.