

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

S.P. 136 - L.D. 409

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 ~~3~~ 3-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-§3, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

3. Meeting. The board shall meet ~~at least once in each month~~ as it determines necessary for the transaction of such business as may properly come before it.

Sec. 12. 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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. 18. 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. 19. 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. 20. 5 MRSA §17438, as enacted by PL 2007, c. 240, Pt. RRR, §2, is amended to read:

§17438. Reporting requirements under Governmental Accounting Standards Board

The system and trustees of the investment trust fund have no obligation to comply with reporting requirements related to the investment trust fund under Governmental Accounting Standards Board Statement Number ~~43~~ 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, or Governmental Accounting Standards Board Statement Number ~~45~~ 75, Accounting and Financial Reporting ~~by Employers~~ for Postemployment Benefits Other Than Pensions. The State is obligated to comply with the reporting requirements under Governmental Accounting Standards Board Statement Number ~~43~~ 74 and Governmental Accounting Standards Board Statement Number ~~45~~ 75. The system shall account for the assets of the investment trust fund in its annual financial statements.

Sec. 21. 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. 22. 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 ~~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. 23. 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. 24. 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. 25. 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. 26. 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. 27. 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 ~~physicians~~ 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 ~~physicians~~ 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. 28. 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. Premiums for retiree group life insurance coverage under section 18061, subsection 2, and interest and dividends attributable to those premiums, may not be used to provide benefits for participants who are not retirees.

Sec. 29. 5 MRSA §18060, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 30. 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-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 ~~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. 31. 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. 32. 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-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 ~~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. 33. 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. 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 ~~physicians~~ 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 ~~physicians~~ 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. Premiums for retiree group life insurance coverage under section 18061, subsection 2, and interest and dividends attributable to those premiums, may not be used to provide benefits for participants who are not retirees.

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.