

Susan Hawes
Portland, Maine

**Testimony in Opposition to LD 2145 as Written
An Act to Decrease Offsets to Disability Retirement Benefits**

Good afternoon, Senator Tipping, Representative Roeder, and members of the Labor Committee.

My name is Sue Hawes and I live in Portland. My husband has been a MainePERS disability retiree since 2018. He will remain in the program until 2040, when state disability retirement law finally transitions him to regular service retirement at age 70.

Thank you for the opportunity to testify in opposition to LD 2145 as currently written. This system bill before you today should not advance without substantial amendments.

I respectfully request that the Committee consider the following amendments with support and background further detailed in my written comments below:

1. **Eliminate the MainePERS Workers Compensation offset entirely.** Do not allow MainePERS to merely tinker with the offset using this bill. The offset not only harms disabled retirees, it creates extraordinary busywork for MainePERS staff as evidenced in the last two pages attached to my testimony.¹ The WC offset unfairly creates a separate class of public employees who are financially penalized by our retirement system because they were disabled by a work injury and compensated by Workers Compensation for the disabling work injury.
2. **If the Committee will not eliminate the Workers Compensation offset, remove Section 5 until the offset is repealed.** Notwithstanding the bill's title, Section 5 increases the amount of disability benefits MainePERS withholds from certain PLD members.
3. **If the Committee will not eliminate the Workers Compensation offset, set the AFC/AAE percentage at 128% or greater.**
4. **Ensure any favorable changes to the Workers Compensation offset apply to current disabled retirees, not just future applicants.** As proposed by the system, the bill benefits MainePERS by continuing to withhold disability benefits from current disabled retirees already harmed by the Workers Compensation offset.

First Amendment: Eliminate the Workers Compensation Offset

Although my husband is not impacted by the MainePERS Workers Compensation offset, the offset is fundamentally unfair and should be repealed by amending this bill. The offset creates two classes of disabled retirees within the MainePERS disability program by singling out those public employees disabled by work-related injuries and subjecting them to disability benefit reductions that do not apply to retirees who made the same financial contributions to the system but became disabled by non-work-related events or illness.

Many or most MainePERS disabled retirees have settled their Workers Compensation claims and no longer receive weekly benefits. Settlement values vary widely depending on average

¹ See pages 7 and 8 attached to my testimony which contain a MainePERS disability offset worksheet acquired via FOAA request.

weekly wage, degree of incapacity, and residual permanent impairment caused by the work injury.

There is no policy justification for retaining this offset which creates hardship for the very population for which the disability program exists to protect. Long unexamined by either the actuary or MainePERS, the Workers Compensation offset should be repealed, not merely adjusted, in LD 2145.

The offset is an outdated attempt between the retirement system and Maine's self-insured Workers Compensation system to discourage malingering and control the potential income of the disabled. Research published in "*The Extra Costs of Living with a Disability in the U.S. — Resetting the Policy Table*" shows that households containing an adult with a work-related disability require approximately 28% more income to maintain the same standard of living. In Europe, researchers estimate that households with a disabled adult require 43% more income.

MainePERS disability benefits are currently 59% of Average Final Compensation; in the recent past, disability benefits were about 66% of AFC. Average Final Compensation is locked to a historical salary and increases only slowly through COLAs.

Worse, the disability benefit calculation fails to account for the loss of employer-paid health insurance. Like many disabled retirees, especially in the PLD plan, my husband is on his own paying for health insurance—and pay he does. Moreover, injured workers who settle Workers Compensation claims cover healthcare costs related to their injuries on a significantly reduced income for the remainder of their lives. Settlements may not earmark funds for Medicare, yet Medicare may require disabled retirees to pay a substantial portion of the settlement proceeds to cover injury-related claims. The employee, and in some cases, Medicare, accept the financial risk of future medical costs related to the work injury—risk held by the employer unless the injured worker settles.

Through its Workers Compensation offset, MainePERS treats retirees with Workers Compensation settlements as though they are receiving ongoing compensation. To the contrary, lump sum settlement funds are often quickly depleted by insurance claw backs after disability benefit approval, paying off debt accumulated following job loss, home modifications, medical equipment, and other unmet needs.

It is not MainePERS's role to monitor or dictate how WC settlement funds are spent, saved, or distributed by a disabled retiree. Nor is it efficient or reasonable for MainePERS to force disabled retirees with no anticipated capacity for earnings from employment to annually submit their annual federal tax returns to MainePERS under threat of benefit termination and under the guise of enforcing an offset.²

The lives of the disabled retirees are difficult enough without MainePERS using red tape to repeatedly cause the disabled retirees and their families even more stress and anxiety about the future.

² MainePERS Chief Operating Officer and General Counsel Michael Colleran to Sue Hawes, email, May 22, 2024, stated, "With respect to your question about changes in the amount of the Social Security [disability] benefit do result in a change in the offset to the MainePERS benefit. If we do not know that the Social Security benefit went up until much later, the member could end up owing us a large amount [in overpayments]. Similarly, if we do not know that the Social Security benefit went down, the member could be receiving less than they should."

Amending this bill to eliminate the Workers Compensation offset would continue the momentum of last session's LD 1638, when this Committee voted unanimously to eliminate the MainePERS Social Security Disability offset.

Second Amendment: Remove Section 5 Unless the Offset Is Repealed

Despite the bill's title, "*An Act to Decrease Offsets to Disability Retirement Benefits*," Section 5 does the opposite. Eliminating the PLD plan's Average Annual Earnings (AAE) calculation increases the Workers Compensation offset and allows MainePERS to withhold more disability benefits from certain PLD members.

Section 5 harms PLD members while benefiting the system. Repealing AAE without repealing the Workers Compensation offset creates a financial gain for the trust fund at the direct expense of disabled PLD members who would otherwise receive higher benefits with AAE.

AAE was enacted for PLD members in 2003 through LD 1248 (121st), based on testimony from a disabled firefighter and sponsored by then Rep. Matt Dunlap. After passage, MainePERS explained that non-MainePERS employment benefited members when calculating Workers Compensation and Social Security Disability offsets.³

Section 5 is not a technical adjustment. MainePERS staff are directing the Legislature to approve a benefit reduction targeted at specific disabled PLD retirees. Nothing has changed to justify reversing the PLD plan's AAE statute while the system's Workers Compensation offset remains intact.

Third Amendment: If the Offset Remains, Set AFC/AAE at 128% or Greater

As previously stated, the Workers Compensation offset is outdated.

Households with a disabled adult require approximately 28% more income to maintain the same standard of living; in Europe, researchers estimate a 43% increase is required. AFC is locked to a past salary which does not keep pace with the actual cost-of-living pressures faced by disabled retirees as they age on a fixed income, often fixed years before their full retirement age.

If the offset is retained, I believe increasing the AFC/AAE percentage to at least 128% is the minimum necessary to prevent further erosion of benefits.

Fourth Amendment: Apply Favorable Changes to Current Disabled Retirees

As drafted by the system, LD 2145 applies only to future applicants. If the Committee chooses to modify AFC/AAE percentages or outright eliminate the Workers Compensation offset, fairness demands that current disabled retirees already harmed by the offset also receive relief.

³ See "Maine State Retirement News for Members, Retirees and Employers," Maine State Retirement System, SPECIAL LEGISLATIVE ISSUE - Summer 2003, page 2.

Concerns Regarding the Conduct of Staff and MainePERS Actuary, Cheiron

The Labor Committee should be concerned that for decades neither the Board, the PLD Advisory Committee, nor the system's actuary, Cheiron, has validated or measured the 10% Workers Compensation offset actuarial assumption used by these bodies to produce experience studies, calculate plan valuations, and set future contribution rates.

For at least the last two decades, the Workers Compensation offset appears in every Annual Comprehensive Financial Report to the legislature as an actuarial assumption that 10% of disabled retirees experience benefit reductions due to receiving WC. Thereby, the WC offset assumption contributes to lowering the retirement plan's contribution rates in anticipation of paying less than the defined disability benefit to a specific portion of anticipated disabled retirees (10%).

Yet MainePERS has produced no documentation showing that this WC actuarial assumption was ever reviewed or measured for accuracy over decades. Given the sharp decline in the number of disabled retirees over the same period, this is an untenable position for both the actuary and MainePERS.⁴ In 2004, in total there were approximately 2,400 disabled retirees; by 2024, that number had fallen to just about 854 disabled retirees.⁵

I filed a June 6, 2025, FOAA request for the Workers Compensation offset data MainePERS provided to the actuary for the 2015–2020 Five-Year Experience Study. On September 19, 2025, MainePERS's response was “no responsive records,” notwithstanding the fact that these experience studies are explicitly produced for MainePERS by their actuary, Cheiron, to measure the actual experience of the system against the actuary's actuarial assumptions.

During LD 1638 in spring 2025 eliminating the MainePERS Social Security Disability offset, MainePERS staff claimed—without evidence—that the retirees harmed by the SSDI offset had been invisibly included in the actuary's Workers Compensation offset actuarial assumption. This claim was used by MainePERS staff to persuade the Legislature that releasing these withheld benefits and accrued interest to the harmed retirees would create an actuarial cost.

The system's actuary, Cheiron, echoed staff's unsupported claim that the SSDI offset was invisibly included in the WC offset 10% assumption. And in October 2025, months after the repeal of the SSDI offset was signed by the Governor, in its 2025 annual PLD valuation report, Cheiron, for the first time and without explanation, added the words “Social Security” to a long-used Workers Compensation offset assumption graph *caption* on page 81—apparently without validating whether 10% of MainePERS disabled retirees actually experience reduced benefits due to the WC offset.

I was unsurprised to learn last year that the Board has retained its actuary, Cheiron, through a no-bid contract for about forty years. This raises serious questions about how actuarial assumptions across the entire system have been and are being managed.

⁴ Although very highly compensated with total compensation just under \$200,000/year, the position of MainePERS “Director of Actuarial and Legislative Affairs” requires no training or experience in actuarial science. The two individuals in this role since the late 1980s do not appear to have training or experience in actuarial science.

⁵ See Susan Hawes, written public comments submitted to the Labor committee in opposition to the renomination of Richard Metivier to the MainePERS Board of Trustees, January 14, 2026.

Background and Context

Beginning in mid-2021, I started attending monthly Board of Trustees meetings, acquiring MainePERS records through many hundreds of FOAA requests, and reading innumerable system reports, rules, statutes, court cases involving MainePERS, and hundreds of Board Decisions resulting from appeals with Hearing Officers.⁶ I have also connected with many other disabled retirees.

Over time, this information, combined with our own direct experiences with MainePERS during 2018–2019 and beyond, revealed increasingly disturbing patterns.

Many disabled retirees do not understand Maine's unnecessarily complex disability retirement rules and laws. They cannot effectively advocate for themselves, yet they live their lives under the perpetual threat that a MainePERS employee may suddenly terminate their disability benefit. I became compelled to pursue course corrections to protect disabled public service retirees like my husband.⁷ I experienced and read about rampant abuses of discretion occurring at the hands of MainePERS disability retirement program employees. These actions are almost always being reinforced by the Board's ineffectual appeals program, and, if advanced to court, judges most often simply rubber stamp the decision due to court deference to the system.⁸

At any time, a letter may be postal mailed from MainePERS without tracking, notifying the retiree of a sudden adverse decision and providing 30 days for the retiree to find and pay an attorney to file an appeal. For many disabled public service retirees, MainePERS disability benefits are their sole source of income, making legal representation financially difficult or impossible to obtain.

I have raised serious concerns repeatedly and in good faith over these past five years with some limited random success but never developed in a collaborative, open manner.⁹ My patience is

⁶ In 2019, during our second appeal, the MainePERS System Representative (staff attorney representing the system in appeals) sent, unsolicited, a CD-ROM of about 500 Board Decisions to my husband's attorney. The MainePERS attorney suggested our attorney read the decisions to determine if any prior decisions were relevant. This record set greatly enhanced my understanding of the administration of MainePERS disability retirement program. The records put on full display the long-standing abject failures of the MainePERS Board of Trustees to fulfill its statutory duties to its members and directly, transparently address administrative issues impacting the rights of the disabled retirees.

⁷ "It seems the people that have the most to lose when government doesn't work right, also have the least ability to let it be known the government is not working right." Benjamin Eikey, Levin Center for Oversight and Democracy, statement to the Maine Government Oversight Committee, January 24, 2025.

⁸ See Maine Education Association General Counsel Andrew Mason, Esq. testimony on LD 1463(127th).

⁹ Even the Consensus Based Rulemaking effort, which I compelled the Board to engage in, was a reenactment of the pattern. In about February 2022, the MainePERS COO had suddenly notified us that my husband would be exempted from the MainePERS longstanding busywork routine of harassing the ill and disabled by requesting medical records every two years and "evaluating" the retiree's "continuing eligibility." My neighbors and I petitioned for a rulemaking hearing to occur (for years prior, the Board promulgated rules while holding no public hearings, as they are allowed). I demanded MainePERS promulgate a rule to ensure ALL similar disabled retirees were ALSO able to be exempted from biennial eligibility reviews—not just my husband. While the Board agreed to engage in CBRM, when it occurred in late 2022, the COO simply repeated in CBRM what he normally does in rulemaking development (seek feedback or "consensus" of mostly "stakeholders" unfamiliar with the disability program and muzzle the disabled retirees and their advocates). I have a November 2022 recording of the COO telling an employee at the start of the last CBRM meeting to promote those individuals waiting in the ZOOM, but "Not Sue Hawes," he said. Why did the COO stick me in "webinar only mode" with no ability to speak throughout the handful of CBRM meetings and then, to this day, list me on their website as if I was a participant in the CBRM "working group?"

now exhausted with both the CEO who has served the Board since mid-2021, and the COO. Leaving many victims in his wake since being hired in 2013, the COO has been the system's General Counsel—responsible for the operations of this grossly mismanaged government disability program.¹⁰

CEO Wyke and COO Collieran have proven time and again my serious concerns about the administration of the disability retirement and appeals programs go into a black hole, most often never seen again. On occasion, when convenient and advantageous to MainePERS, and without warning or consultation, staff developed fixes may pop up here and there. The CEO and COO work hard to protect the Board and employees and avoid transparent accountability as they course correct. Their focus is not on what is best for the members—instead they work to evade sunlight and protect the system, its Board, its employees who serve as fiduciaries through their role in determining eligibility for disability benefits, and the many attorneys on the MainePERS payroll or contracted independently with MainePERS as Hearing Officers who engage in administrative appeals and write Board Decisions. On the other hand, I have long been treated like a most unwelcome outsider without explanation and despite my years of experience with the system's disability retirement program and a clear and consistently demonstrated interest in improving the program.

Meanwhile, MainePERS staff have the ears of the legislators and the Board, leaving those impacted and their advocates no opportunity for rebuttal or to challenge the claims made by staff behind closed doors.

The changes proposed by staff are typically minimal, reflect the Board's haphazard regulatory agenda, and are structured to benefit the system first and at the expense of disabled retirees through the intentional exclusion of their voices and lived experiences in the program. LD 2145 follows this same troubling pattern.

"Whack-a-mole" and "Catch Me If You Can" have replaced transparent and thoughtful policymaking at MainePERS, if it ever existed there. Tightly staff-controlled regulatory processes routinely muzzle impacted disabled retirees and their advocates and proceed according to exactly where we are today: afforded three minutes at a legislative public hearing to respond to the staff's already-decided statutory changes developed without consultation with those affected. The Legislature must not defer to a system that puts on a show of reform to shield itself from scrutiny while harming those it serves.¹¹

Legislators are repeatedly asked by MainePERS to just trust them—particularly on seemingly complex statutory matters that materially affect disabled retirees. This Committee has oversight jurisdiction of the state's retirement system. You are the last stop for ensuring that disabled public service retirees are treated equitably by the system and that their rights are not being trampled by system employees.

In conclusion, the system's bill before you, LD 2145, prioritizes system convenience over equity and oversight. Until the Workers Compensation offset is eliminated—or at minimum fully neutralized—this bill should not advance as written. Thank you for your time and consideration.

¹⁰ See Susan Hawes, written public comments submitted to the Labor committee in opposition to the renomination of Richard Metivier to the MainePERS Board of Trustees, January 14, 2026.

¹¹ See pages 347-349 and 356-374 of the MainePERS Board of Trustees Public meeting packet, November 13, 2025.

59%

DISABILITY OFFSET WORKSHEET				59% MONTHLY (OFFSET 59)
DATE:	10/14/20			
NAME:		SSN:	ID 288618	
DIS. CODE:		AGE:	64	
		FACTOR:	10.4859	
RET. DATE:	11/01/19			
EFF. DATE:	07/01/20	Employer:	P0103	
1) 80% X	\$ 80,691.88 = \$ 64,553.50 :12 = \$ 5,379.46			
	(avg final comp)	(80%)		
2) 59% X	\$ 80,691.88 = \$ 47,608.21 :12 = \$ 3,967.35			
	(avg final comp)	(annual ret. allow.)	(Reg. P/R amount)	
3) 52 WKS X	\$ 889.34 = \$ 46,245.68 : 12 = \$ 3,853.81			
(Work.Comp.)	(weekly W/C)	Annual / 52 = \$ 889.34		
		Weekly Offset Amount		
4) Contribut.				
plus interest	\$ 59,047.47 : 10.4859 : 12 = \$ 469.26			
		(factor @ ret. age)	(actuarial equiv.)	
5)	\$ 64,553.50 - \$ 46,245.68 = \$ 18,307.82 :12 = \$ 1,525.65			
	(80% AFC)	(annual W/C)	(80% AFC minus W/C)	
<u>STOP! IF LINE 5 RESULTS IN A NEGATIVE, MEMBER CAN ONLY RECEIVE THE AE.</u>				
6)	\$ 47,608.21 - \$ 18,307.82 = \$ 29,300.39 :12 = \$ 2,441.70			
	(annual ret. allow)	(80% AFC minus W/C)	(offset)	
7)	\$ 3,967.35 - \$ 2,441.70 = \$ 1,525.65 *			
	(Line 2: P/R amt)	(the offset)		
VERIFICATION:				
	\$ 3,853.81 + \$ 1,525.65 = \$ 5,379.46 **			
		(if negative: member gets actuarial equiv.)		
* Allowable monthly payroll amount.		**if this amount is less than 80%		
Member will receive greater of this amount		of AFC, member will receive both		
or the actuarial equivalent		W/C and payroll amount.		
GOES ON PAYROLL FOR	\$ 1,525.65	AE		
EFFECTIVE DATE:	07/01/20			
Completed by:		Specialist:		
Date:		Date:		
Verified by:				
Date:				

PPMISC

Hawes - LD 2145 (132nd)
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This one is with Multiple Employers (State/Teacher & PLD) - this will need to be recalculated at some point in time

██████████ ID 288618

Changeover to Service Retirement

DOB: 01-13-1956 Dis RA Date: 11/01/2019

Age: 64

Current Dis RA benefit

$$\$80691.88 \text{ (AFC)} \times .59 \text{ (Dis \%)} = \$47,608.21 / 12 = \$3,967.35$$

Service credits as follows:

P Spec 2	9.8485
T Reg.	<u>.0111</u>
Total	9.8596

T Reg. calculation

$$\$8,499.10 \text{ (AFC)} \times 0.02 \text{ (factor)} = \$169.98 \times .0111 \text{ (SC)} = \$1.89 / 12 = \$0.16$$

P Spec 2 Calculation

$$\$80,691.88 \text{ (AFC)} \times .02 \text{ (factor)} = \$1,613.84 \times 9.8485 \text{ (SC)} = \$15,893.90 / 12 =$$

\$1,324.49

Total benefit	\$1,324.65
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(To determine the additional SC needed subtract the
Current Dis benefit of \$3,967.35 - \$1,324.65 (total benefit)
= \$2,642.70 and multiply by 12(mos) = \$31,712.40 and divide
by the \$1,613.84 (AFC *0.02) equals 19.6503 years needed to be
Eligible to C/O)

Additional service needed

$$\$80,691.88 \text{ (AFC)} \times .02 \text{ (factor)} = \$1,613.84 \times 19.6503 \text{ (SC)} = \$31,712.44 / 12 =$$

\$2,642.70

Total benefit at changeover	\$3,967.35
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