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LD 2145

Written Testimony on LD 2145

In Support of the Intent, With Concerns Regarding Implementation

To:

Senator Mike Tipping, Chair

Joint Standing Committee on Labor and Housing

Maine Legislature

And Members of the Joint Standing Committee on Labor and Housing

Senator Tipping and Members of the Committee:

I submit this written testimony in support of the intent of LD 2145, while respectfully raising concerns about how disability statutes are implemented in practice and how this legislation, as currently drafted, may not fully address those realities.

The intent of LD 2145—to address inequities and downstream harm arising from the administration of disability retirement benefits—is sound and necessary. My experience illustrates why that intent matters, and also why careful attention to implementation is essential.

### I. Experience Illustrating the Implementation Gap

I applied for disability retirement in March 2021, shortly before new statutory medical safeguards were enacted. Those safeguards were intended to ensure that disability determinations were grounded in appropriate medical evaluation.

In my case, however, my application proceeded for more than four years without an Independent Medical Evaluation (IME). An IME was not conducted until June 18, 2025—more than 51 months after my application—and I was awarded disability retirement benefits the following month.

During that extended period, multiple sources of medical evidence supporting disability were present in the record, including:

Three healthcare provider assessments supporting disability; and

An active Social Security disability determination effective September 18, 2020.

Despite the presence of this medical evidence, my application proceeded without the independent medical review required by statute. Instead, medical information was reviewed internally through administrative processes rather than through the statutory medical evaluation framework.

### II. Legislative Intent Versus Agency Practice

In testimony to this Legislature on May 10, 2021, MainePERS leadership stated that staff review every denial of disability benefits as part of the agency's disability process. That explanation was offered in response to legislative questions about how disability statutes and safeguards enacted in 2021 would be applied.

In practice, however, statutory medical safeguards—particularly the Independent Medical Evaluation—were not applied consistently to pending applications and were treated as discretionary rather than mandatory.

When legislative reforms are not implemented as written, applicants bear the consequences. In my case, that consequence was years of delay and uncertainty—harm that could not be undone once benefits were ultimately awarded.

### III. Structural Barriers Affecting Outcomes

MainePERS is a statutorily created public agency charged with administering retirement and disability benefits. While it functions as a fiduciary and benefit administrator, its internal processes often require members to pursue formal, adversarial pathways in order to obtain clarification or correction.

In my experience, documented administrative errors and procedural irregularities were raised repeatedly. Despite notice and documentation, those issues were not timely resolved. As a result, the burden of enforcement shifted to the individual member, rather than being addressed through internal correction mechanisms.

When statutory safeguards are delayed, inconsistently applied, or treated as optional, downstream consequences compound over time. These consequences fall on disabled applicants and their families, not on the system itself.

#### IV. Relevance to LD 2145

The intent of LD 2145—to address inequities and harms that arise from disability retirement administration—is both appropriate and necessary. My experience demonstrates why legislative attention to this area is warranted.

However, legislation that focuses on outcomes without ensuring consistent, timely application of underlying statutory safeguards risks leaving the same implementation gaps intact. If medical protections are not applied at the time determinations are made, later corrective measures may not fully remedy the harm experienced by applicants.

For that reason, while I support the intent of LD 2145, I urge the Committee to consider whether additional clarification or safeguards are needed to ensure that statutory protections are applied uniformly and as intended at the front end of the disability determination process.

#### Conclusion

LD 2145 reflects an important recognition that gaps between legislative intent and agency practice can produce long-term harm for disabled public employees.

My experience illustrates why those gaps matter, and why attention to implementation is as critical as statutory design. I respectfully support the intent of this legislation and encourage the Committee to consider how best to ensure that statutory medical safeguards are applied consistently, timely, and as the Legislature intended.

Thank you for your consideration.

Respectfully submitted,

Wendy L. Fenderson

Limerick, Maine