



## Maine Education Association

Grace Leavitt President | Jesse Hargrove Vice President | Beth French Treasurer  
Rebecca Cole NEA Director | Rachelle Bristol Executive Director

### Testimony

### In Support

## LD 1152: An Act to Make Long-term Disability Insurance Coverage Available to Public Employees

John Kosinski, Government Relations Director, Maine Education Association

Before the Labor and Housing Committee

April 4, 2023

Senator Tipping, Representative Roeder and esteemed members of the Labor and Housing Committee, My name is John Kosinski (he/him) and I am proud to serve as the Director of Government Relations for the Maine Education Association (MEA). The MEA represents 24,000 educators in the state of Maine, including teachers and other professionals in nearly every public school in the state and faculty and other professional staff in the University of Maine and Community College Systems.

I am here to testify on behalf of the MEA in support of LD 1152, *An Act to Make Long-term Disability Insurance Coverage Available to Public Employees*.

This bill represents an important step forward for thousands of public employees. Frankly, most public employees and employers don't think much about disability coverage until they need it. But in the 129<sup>th</sup> Legislative Session and then the 130<sup>th</sup>, and even before, this Committee and other committees heard horrifying testimonies from former public employees who found themselves disabled and in dire straits. One such case of a former award-winning teacher from Wells generated significant press attention yet this teacher continued to be denied disability retirement and the end result was tragic.<sup>1</sup> This case generated press attention, but other stories flew under the radar.

At issue is the type of disability system currently included in the MainePERS program. The current program is a permanent disability program or a retirement disability program. This means an employee must be permanently disabled and unable to ever return to work in order to qualify.<sup>[1]</sup> For example, in cases where a teacher may have been blinded may not qualify, since the blind teacher may one day get

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<sup>1</sup> Please see Seacoast Online, printed January 27, 2016, found here: [Widow of teacher Bob Sprankle committed to changing the system \(seacoastonline.com\)](http://www.seacoastonline.com)

<sup>[1]</sup> An explanation of the current plan from the stakeholder report: MainePERS' Disability Retirement benefit covers permanent disabilities, that result in a member being unable to perform the essential functions of the member's employment position with reasonable accommodation. Disability Retirement benefits replace either 59%, 60% or 66.67% of income, depending on the plan under which an employee has coverage. A long-term disability insurance (LTDI) program would assist in addressing income protection gaps for members who do not, or do not yet, qualify for Disability Retirement benefits, and offer members more robust protection from the financial losses associated with long-term disability. The program is designed to be fully insured through a carrier that would partner with MainePERS in implementing the new program

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better. The same with the case of the Wells teacher – he lost use of his hands, but was still able to work, maybe just not as a teacher and one day, the hope was, he would regain use of his hands and could return to work. In both cases, I assume there was a possibility the teacher will get better and can return to service. The only option for these teachers under the current plan is to retire. The current program has a purposeful high threshold and was not designed as a long-term disability program. These types of denials leave these teachers in the most unfortunate predicament – unable to do the job they love, no income to provide for their basic needs, and, oftentimes, no remedy in sight.

In the 130<sup>th</sup> Legislative Session, then-Senator Dave Miramant brought a bill forward to address these gaps in disability coverage and provide procedural fixes to the current disability process. LD 1644 had two important components.

First, it provided several fixes for the current MainePERS disability retirement system. I must note, since this bill was signed into law in June of 2021, the response from the attorneys representing disabled teachers and the reports of disability applicants have been overwhelmingly positive. These changes were critical to creating a fairer, less “Kafkaesque” disability approval and appeals process. And we applaud the work of MainePERS for working with MEA, our attorneys and other stakeholders to make this process better.

LD 1644 also convened a stakeholder group to focus on closing the gap in the current disability coverage. Public employees need a long-term disability program for those employees that find themselves disabled, unable to work, but perhaps not deemed permanently disabled. The current program provides limited coverage to limited public servants. The stakeholder group met and produced their report. Not surprisingly, there were some disagreements about how to develop such a plan, the intricacies of such a plan and how to pay for it.

We are dedicated to seeing the state adopt and implement a LTDI plan for all public employees in MainePERS. The lack of a current program constitutes yet another way public employees are disadvantaged compared to those in the Social Security System. The Social Security System disability program provides coverage for more types of disability than the current MainePERS participants. Closing this gap will bring greater parity between participants in MainePERS and Social Security. It is important to note, bus drivers, Ed Tech Is, and others in Social Security are covered by the Social Security Disability System, not the MainePERS Disability Retirement System.

We can also say, without equivocation, that what we are doing now is not working. Maine School Management has a disability program that currently offers a program in approximately 60 school districts to a little over 2,000 individuals. There are over 250 school districts in the state, with tens of thousands of school employees. There are 40,000 public employees currently lacking long term disability coverage. Maine School Management has offered this program for decades yet there has been no discernible progress in expanding long-term disability benefits to more teachers and ed tech IIs and IIIs.

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What's more, we feel it is important for the state to develop and implement a LTDI plan for public employees so we can benefit from the efficiency and the economy of scale of having all public employees in one LTDI plan. The current piecemeal approach has not worked and too many find themselves without coverage, just when they need it. By instituting a statewide system, we can find savings and provide a similar benefit to public employees in MainePERS compared to those in the Social Security System.

At the same time, I am sure you can appreciate our concern about the cost of this being borne by teachers and ed techs (IIs and IIIs). These workers already pay 7.65% of their salary into the MainePERS benefits. This is more than the 6.2% a private sector worker pays into Social Security. Adding more costs to employees to create parity with Social Security when they already pay more than what is required in Social Security causes us concern, especially when we are facing significant teacher shortages due at least in part to the low salaries and wages of teachers and ed techs.

We are certainly open to discussions about the benefits package of any LTDI program. But we really hope we can see progress in closing this gap in coverage. Every year, more teachers and ed techs fall through this crack. The work has been done to make improvements to the current disability retirement system, and to gain stakeholder input on a path forward. The remaining decisions are policy ones – to be made by you, the Legislators.

Before concluding, we would like to thank the staff and leadership at MainePERS for the commitment to collaboration they have demonstrated, especially concerning the disability protections for public sector workers. Both in developing the changes to our current disability system and in leading the efforts of this stakeholder group, the MainePERS staff have been fair, communicative, and helpful. We appreciate their efforts.

I will do my best to answer any questions today but I am not an expert on these matters and would suggest you consider asking the staff at MainePERS specifics about the current disability plan or the impact of an LTDI plan on current benefits.

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