CHAPTER 421

GENERAL PROVISIONS

SUBCHAPTER 1

DEFINITIONS

§17001. Definitions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 801, §§5, 7 (NEW).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) Accumulated contributions. "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2, except that, for a member with less than 10 years of creditable service, if the amounts contributed by the member or picked up by the employer do not equal 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee for service rendered after December 31, 1991, "accumulated contributions" includes as much of the employer's contribution in the Retirement Allowance Fund as is needed to reach 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee.
[PL 1991, c. 619, §1 (AMD); PL 1991, c. 619, §18 (AFF).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) Accumulated contributions. "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2.
[PL 1987, c. 739, §§1, 48 (AMD).]

2. Actuarial equivalent. "Actuarial equivalent" means an amount of equal value when computed at the discount rate contained in actuarial assumptions adopted by the board. "Actuarial equivalent," when used to indicate the amount that must be paid in order to purchase service credit, means the amount that equals the cost of additional benefits that become payable as a result of the service credit, including, when applicable, the projected cost of a member's earlier eligibility for retirement.
[PL 2021, c. 548, §6 (AMD).]

3. Actuary. "Actuary" means the individual or the organization designated by the board to be the technical advisor to the board under section 17107.
[PL 1985, c. 801, §§5, 7 (NEW).]

3-A. Annual base compensation. "Annual base compensation" means a member's gross compensation, based upon amounts reported by the member's employer on the member's previous year's federal wage and tax statement, that is used the first day of each April for setting the amount of coverage prior to retirement for participants in the group life insurance program administered by the board.
[PL 1993, c. 386, §1 (AMD).]

3-B. Alternate payee. "Alternate payee" means a spouse, former spouse, child or other dependent of a member or retiree who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by the retirement system with respect to that member or retiree.

[PL 1991, c. 746, §3 (NEW); PL 1991, c. 746, §10 (AFF).]

4. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay or for days worked for which the level of pay is reduced as the result of the freezing of merit pay and longevity pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, July 1, 2009, July 1, 2010, July 1, 2011 or July 1, 2012, or a combination thereof, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions taken by a local school administrative unit and the member elects to make the payments as set forth in section 17704-B or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, or, if a member of a local school administrative unit is subject to loss of compensation from employment in an extracurricular or cocurricular position that was eliminated or otherwise unavailable during the period from January 1, 2020 to July 1, 2021 due to circumstances related to the novel coronavirus disease referred to as COVID-19 and the member elects to make the payments as set forth in section 17704-B, or, if a member is subject to days off without pay during the fiscal year beginning July 1, 2009 or July 1, 2010, as a result of actions of a participating local district and the member elects to make the payments as set forth in section 18305-C, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or [PL 2021, c. 225, §1 (AMD).]

B. The average annualized rate of earnable compensation of a member during the member's entire period of creditable service if that period is less than 3 years. [RR 2023, c. 2, Pt. B, §92 (COR).]
[RR 2023, c. 2, Pt. B, §92 (COR).]

5. Beneficiary. "Beneficiary" means a person or persons designated by a member to receive a benefit under this Part or a person otherwise entitled to receive a benefit under this Part.
[PL 1985, c. 801, §§5, 7 (NEW).]

6. Benefit. "Benefit" means any payment made, or required to be made, to a beneficiary under chapter 423, subchapter V or chapter 425, subchapter V.
[PL 1985, c. 801, §§5, 7 (NEW).]

7. Board. "Board" means the board of trustees, established under section 12004-F, subsection 9, to administer the Maine Public Employees Retirement System.
[PL 1989, c. 503, Pt. B, §32 (AMD); PL 2007, c. 58, §3 (REV).]

8. Child. "Child" means any natural or legally adopted, born or unborn, progeny of a member.
[PL 1985, c. 801, §§5, 7 (NEW).]

9. Consumer Price Index. "Consumer Price Index" means:

A. The Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the Bureau of Labor Statistics, United States Department of Labor; or [PL 2001, c. 181, §3 (AMD).]

B. If the index described in paragraph A is revised or superseded, the board must employ the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor that the board finds to be most reflective of changes in the purchasing power of the dollar for the broadest population of consumers, including retired consumers. [PL 2001, c. 181, §3 (AMD).]

[PL 2001, c. 181, §3 (AMD).]

10. Creditable service. "Creditable service" means a person's membership service, the person's prior service and service for which credit is allowable under sections 17755 and 17756; section 17760, subsection 3; section 18258; sections 18355 and 18356; and section 18360, subsection 2.

[PL 2003, c. 693, §1 (AMD).]

11. Department. "Department" means any department, commission, institution or agency of State Government including the Maine Community College System.

[PL 1989, c. 443, §16 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

12. Dependent child. "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn, member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or [PL 1985, c. 801, §§5, 7 (NEW).]

B. Regardless of age or marital status, any other progeny certified by an independent health care provider or the medical review service provider to be permanently mentally incompetent or permanently physically incapacitated and determined by the chief executive officer to be unable to engage in any substantially gainful employment. [PL 2021, c. 277, §11 (AMD); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

[PL 2021, c. 277, §11 (AMD); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

12-A. Domestic relations order. "Domestic relations order" means a judgment, decree or order, including approval of a property settlement agreement, that:

A. Relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a member or retiree; and [PL 1991, c. 746, §4 (NEW); PL 1991, c. 746, §10 (AFF).]

B. Is made pursuant to a domestic relations law of this State or another state. [PL 1991, c. 746, §4 (NEW); PL 1991, c. 746, §10 (AFF).]

[PL 1991, c. 746, §4 (NEW); PL 1991, c. 746, §10 (AFF).]

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.

[PL 2025, c. 221, §9 (NEW).]

13. Earnable compensation. "Earnable compensation" means salaries and wages paid for services rendered in an employment position, subject to the following inclusions, exclusions and limitations.

A. "Earnable compensation" includes:

(1) Workers' compensation benefits;

(2) Maintenance, if any;

(3) Any money paid by an employer to a 3rd party under a tax sheltered annuity contract or a deferred compensation plan for the future benefit of an employee provided that the money is not derived from amounts excluded from earnable compensation by paragraph B; and

(4) Pick-up contributions. [PL 1989, c. 800 (AMD).]

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.

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. [PL 2025, c. 221, §10 (AMD).]

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. [PL 2025, c. 221, §11 (RPR).]

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, except as provided in subparagraph (3), for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in effect prior to June 30, 1993 apply. This subparagraph does not apply to earnable compensation of employees of participating local districts.

(2) Effective October 1, 1999, the 5% limitation and the 10% limitation on increases in earnable compensation set out in subparagraph (1) may not be changed to a lower percentage for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for

eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2.

(3) Collectively bargained salary or wage increases pursuant to Title 26, chapter 9-A, 9-B or 12 or job promotion may not be considered in calculating salary or wage increases for the purposes of subparagraph (1). [PL 2019, c. 395, §1 (AMD).]

D. For a teacher who is eligible for participation in the State Employee and Teacher Retirement Program who is on a leave of absence while serving as President of the Maine Education Association, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [PL 2007, c. 491, §61 (AMD).]

E. **(TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18)** "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. [PL 2025, c. 221, §12 (AMD).]

E. **(TEXT REPEALED ON CONTINGENCY: See PL 1991, c. 619, §18)** [PL 1991, c. 619, §18 (RP).]

F. For a teacher who, as provided by subsection 42, serves as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit, "earnable compensation" includes compensation paid for the released time, except that the amount of that compensation included in "earnable compensation" may not be more than the compensation that the teacher would have been paid had the teacher remained that same amount of time in the teacher's teaching position. [PL 1993, c. 482, §1 (NEW).]

[PL 2025, c. 221, §§10-12 (AMD).]

14. Employee. "Employee" means:

A. For purposes of this chapter, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, a teacher or a participating local district employee; [PL 1987, c. 402, Pt. A, §§64, 65 (AMD).]

B. For purposes of chapter 423, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, or a teacher; or [PL 1987, c. 402, Pt. A, §§64, 65 (AMD).]

C. For purposes of chapter 425, a participating local district employee. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1987, c. 402, Pt. A, §§64, 65 (AMD).]

15. Executive body. "Executive body" means the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

[PL 1985, c. 801, §§5, 7 (NEW).]

16. Chief executive officer. "Chief executive officer" means the Chief Executive Officer of the Maine Public Employees Retirement System.

[PL 1985, c. 801, §§5, 7 (NEW); PL 2007, c. 58, §3 (REV); PL 2021, c. 548, §45 (REV).]

17. Father.
[PL 2025, c. 390, Pt. A, §12 (RP).]

18. Full-time student. "Full-time student" means a person who meets the requirements for a full-time student set out in rules adopted by the board.
[PL 1985, c. 801, §§5, 7 (NEW).]

18-A. Internal Revenue Code. "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.
[PL 2009, c. 474, §11 (NEW).]

18-B. Health care provider. "Health care provider" means an appropriately licensed, certified or registered provider of mental or physical health care, in either the public or private sector.
[PL 2021, c. 277, §12 (NEW); PL 2021, c. 277, §45 (AFF).]

19. Local district. "Local district" means:

A. Any county, municipality, quasi-municipal corporation or incorporated instrumentality of the State or of one or more of its political subdivisions; [PL 1985, c. 801, §§5, 7 (NEW).]

B. Any incorporated association of employees of the State or employees of any of the entities set out in paragraph A; [PL 1985, c. 801, §§5, 7 (NEW).]

C. Any incorporated association of any of the entities set out in paragraph A; [PL 1985, c. 801, §§5, 7 (NEW).]

D. Any entity eligible to become a participating local district before January 1, 1976; [PL 1985, c. 801, §§5, 7 (NEW).]

E. Any entity participating in the retirement system before January 1, 1976; [PL 2011, c. 657, Pt. I, §1 (AMD).]

F. Any educational institution in the State teaching courses equivalent to or higher than secondary institutions; or [PL 2011, c. 657, Pt. I, §1 (AMD).]

G. Any public charter school, as authorized by Title 20-A, chapter 112. [PL 2011, c. 657, Pt. I, §2 (NEW).]
[PL 2011, c. 657, Pt. I, §§1, 2 (AMD).]

19-A. Medical provider.
[PL 2021, c. 277, §13 (RP); PL 2021, c. 277, §45 (AFF).]

19-B. Medical review service provider. "Medical review service provider" means an entity with whom the chief executive officer has contracted for the review of medical records and the provision of recommendations, opinions and certifications under this Part by health care providers employed by the entity.
[PL 2021, c. 277, §14 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

20. Member. "Member" means any person included in the membership of a retirement program of the retirement system, as provided in chapter 423, subchapter 2, or chapter 425, subchapter 2.
[PL 2007, c. 491, §62 (AMD).]

21. Membership service. "Membership service" means service rendered while a member of a retirement program of the retirement system on account of which contributions are made and for which credit is allowable under chapter 423, subchapter 4 or chapter 425, subchapter 4.
[PL 2007, c. 491, §63 (AMD).]

22. Mother.
[PL 2025, c. 390, Pt. A, §13 (RP).]

23. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any combination of age and years of service requirements at which a member becomes eligible for retirement benefits and at which those benefits may not be reduced under section 17852, subsection 3 or 3-A; section 17852, subsection 10, paragraph C; and section 18452, subsection 3.
[PL 2001, c. 118, §1 (AMD).]

24. Organization. "Organization" means a corporation, partnership or unincorporated association.
[PL 1985, c. 801, §§5, 7 (NEW).]

25. Out-of-state service. "Out-of-state service" means service rendered as an employee of:

A. Any state, territory or possession of the United States, except Maine; or [PL 1985, c. 801, §§5, 7 (NEW).]

B. Any political subdivision of any state, territory or possession of the United States, except Maine. [PL 1985, c. 801, §§5, 7 (NEW).]
[PL 1985, c. 801, §§5, 7 (NEW).]

26. Parent. "Parent" means a natural or adoptive parent or stepparent.
[PL 2025, c. 390, Pt. A, §14 (AMD).]

26-A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) Part-time, seasonal or temporary employee. "Part-time, seasonal or temporary employee" means an employee whose employment position is part-time, seasonal or temporary as defined in 26 CFR Part 31.
[PL 1991, c. 619, §3 (NEW); PL 1991, c. 619, §18 (AFF).]

26-A. (TEXT REPEALED ON CONTINGENCY: See PL 1991, c. 619, §18) Part-time, seasonal or temporary employee.
[PL 1991, c. 619, §18 (RP).]

27. Participating local district. "Participating local district" means a local district that has approved the participation of its employees in the Participating Local District Retirement Program of the retirement system under section 18201.
[PL 2007, c. 491, §64 (AMD).]

28. Participating local district employee. "Participating local district employee" means an employee of a participating local district.
[PL 1985, c. 801, §§5, 7 (NEW).]

28-A. Pick-up contributions. "Pick-up contributions" means member contributions to the retirement system which are assumed and paid by the employer through a reduction of members' salaries for services rendered, in accordance with the United States Internal Revenue Code, Section 414(h), in lieu of employee contributions.
[PL 1987, c. 739, §§3, 48 (NEW).]

29. Prior service. "Prior service" means service rendered before the date of establishment of the retirement system as set forth in section 17101.
[PL 1985, c. 801, §§5, 7 (NEW).]

29-A. Professional employee. "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual or mechanical work; [PL 1989, c. 550, §1 (NEW).]

B. Involving the consistent exercise of discretion and judgment; [PL 1989, c. 550, §1 (NEW).]

C. Of such a character that the product or result of the work cannot be standardized in relation to a given time period; and [PL 1989, c. 550, §1 (NEW).]

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. [PL 1989, c. 550, §1 (NEW).]

[PL 1989, c. 550, §1 (NEW).]

30. Public school. "Public school" is defined as follows.

A. "Public school" includes:

(1) Any public school conducted within the State under the authority and supervision of a duly elected board of education, superintending school committee or school directors; and

(2) Any school which received any direct state aid in 1950 and municipal tuition funds amounting to at least the amount of that state aid during 1950. [PL 1985, c. 801, §§5, 7 (NEW).]

B. "Public school" does not include:

(1) Maine Wesleyan Seminary and College, commonly known as Kents Hill School, as of September 23, 1971;

(2) Bridgton Academy, as of September 1, 1979;

(3) Gould Academy, as of September 1, 1979;

(4) North Yarmouth Academy, as of September 1, 1979; and

(5) Public charter schools, as authorized by Title 20-A, chapter 112. [PL 2011, c. 657, Pt. I, §3 (AMD).]

[PL 2011, c. 657, Pt. I, §3 (AMD).]

30-A. Qualified domestic relations order. "Qualified domestic relations order" means a domestic relations order that:

A. Creates or recognizes the right of an alternate payee, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a member or retiree under any of the programs of the Maine Public Employees Retirement System; [PL 2007, c. 491, §65 (AMD).]

B. Directs the retirement system to disburse benefits to the alternate payee; and [PL 1991, c. 746, §5 (NEW); PL 1991, c. 746, §10 (AFF).]

C. Meets the requirements of section 17059. [PL 1991, c. 746, §5 (NEW); PL 1991, c. 746, §10 (AFF).]

[PL 2007, c. 491, §65 (AMD).]

31. Regular interest. "Regular interest" means interest at the rate set from time to time by the board in accordance with section 17156.

[PL 1985, c. 801, §§5, 7 (NEW).]

32. Restoration to service. "Restoration to service" is defined as follows.

A. For a retired state employee or teacher, "restoration to service" means acceptance of employment as either a state employee or a teacher. [PL 1985, c. 801, §§5, 7 (NEW).]

B. For a retired participating local district employee:

(1) Except as provided in subparagraph (2), "restoration to service" means acceptance of employment with the participating local district from which the employee retired; and

(2) After the date on which the consolidated plan under chapter 427 goes into operation, for a participating local district employee who retires from a participating local district that at the

time of the employee's retirement is in the consolidated plan, "restoration to service" means acceptance of employment with the participating local district from which the employee retired or with any other participating local district that is in the consolidated plan at the time the employee accepts employment. [PL 1995, c. 274, §2 (AMD).]

C. "Restoration to service" does not include election to the Legislature. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1995, c. 274, §2 (AMD).]

33. Retirement. "Retirement" means termination of membership with a retirement allowance granted under this chapter.

[PL 1985, c. 801, §§5, 7 (NEW).]

34. Retirement allowance. "Retirement allowance" means the retirement payments to which a member is or may be entitled as provided in this Part.

[PL 1985, c. 801, §§5, 7 (NEW).]

35. Retirement benefit. "Retirement benefit" means the same as retirement allowance.

[PL 1985, c. 801, §§5, 7 (NEW).]

36. Retirement system. "Retirement system" means the Maine Public Employees Retirement System.

[PL 1985, c. 801, §§5, 7 (NEW); PL 2007, c. 58, §3 (REV).]

37. Service. "Service" means service as an employee for which compensation was paid.

[PL 1985, c. 801, §§5, 7 (NEW).]

38. Service credit. "Service credit" means credit received for creditable service as defined under subsection 10.

[PL 1985, c. 801, §§5, 7 (NEW).]

39. Spouse. "Spouse" means the person currently legally married to a member.

[PL 1985, c. 801, §§5, 7 (NEW).]

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Community College System except those who make the election provided under Title 20-A, section 12722, any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf except as provided in Title 20-A, section 7407, subsection 3-A, any employee of the Maine Military Authority, any employee of the Northern New England Passenger Rail Authority, any employee of the Maine Port Authority, any employee of the Efficiency Maine Trust who on June 30, 2009 is an employee of the Public Utilities Commission energy efficiency or renewable energy programs who elects to remain a state employee, any employee of the Efficiency Maine Trust who accepts employment with the Efficiency Maine Trust prior to July 1, 2010 who was a state employee immediately prior to accepting such employment who elects to remain a state employee and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29; [PL 2003, c. 688, Pt. A, §4 (RPR).]

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or [PL 2003, c. 688, Pt. A, §4 (RPR).]

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29. [PL 2003, c. 688, Pt. A, §4 (RPR).]

[PL 2009, c. 372, Pt. C, §1 (AMD).]

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.
[PL 2025, c. 221, §13 (NEW).]

41. Surviving spouse. "Surviving spouse" means the spouse who survives the death of the member or former member.
[PL 2025, c. 221, §14 (AMD).]

42. Teacher. "Teacher" means:

A. Any employee of a public school or an education service center established pursuant to Title 20-A, chapter 123 who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position, other than an educational technician position for which certification is not required under Title 20-A, section 13019-H, and:

(1) Holds appropriate certification from the Department of Education, including an employee whose duties include, in addition to those for which certification is required, either the setup, maintenance or upgrading of a school computer system the use of which is to assist in the introduction of new learning to students or providing school faculty orientation and training related to use of the computer system for educational purposes; or

(2) Holds an appropriate license issued to a professional employee by a licensing agency of the State; [PL 2021, c. 548, §7 (AMD).]

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 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 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; [PL 2025, c. 221, §15 (AMD).]

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B that was included in the definition of teacher in effect on June 30, 1989, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position that was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date; [PL 2021, c. 548, §7 (AMD).]

D. Any employee of a public school or an education service center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher on August 1, 1988, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination; [PL 2021, c. 548, §7 (AMD).]

E. Any former employee of a public school or an education service center established pursuant to Title 20-A, chapter 123 in a position not included in paragraph A, B or C who was a member of the State Employee and Teacher Retirement Program of the retirement system as a teacher before August 1, 1988, as long as the former employee returns to employment in a position in the same classification before July 1, 1991; or [PL 2021, c. 548, §7 (AMD).]

F. For service before July 1, 1989, any employee of a public school in a position that was included in the definition of teacher before July 1, 1989. [PL 2021, c. 548, §7 (AMD).]

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

"Teacher" also includes a person who is on a leave of absence from a position as a teacher and is duly elected as President of the Maine Education Association.

"Teacher" also includes a person who, subsequent to July 1, 1981, has served as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit and for whom contributions related to the portion of the person's salary attributable to the released time have been paid as part of the regular payroll of the school administrative unit.
[PL 2025, c. 221, §15 (AMD).]

43. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) 26 CFR Part 31. "26 CFR Part 31" means 26 Code of Federal Regulations, Part 31, as amended effective July 1, 1991, or as hereafter amended.
[PL 1991, c. 619, §4 (NEW); PL 1991, c. 619, §18 (AFF).]

43. (TEXT REPEALED ON CONTINGENCY: See PL 1991, c. 619, §18) 26 CFR Part 31.
[PL 1991, c. 619, §18 (RP).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1985, c. 808, §§1,2 (AMD). PL 1987, c. 256, §§1-3 (AMD). PL 1987, c. 402, §A63 (RP). PL 1987, c. 402, §§A64,A65 (AMD). PL 1987, c. 443, §1 (RP). PL 1987, c. 739, §§1-3,48 (AMD). PL 1989, c. 443, §§16,17 (AMD). PL 1989, c. 491, §1 (AMD). PL 1989, c. 503, §B32 (AMD). PL 1989, c. 550, §§1,2 (AMD). PL 1989, c. 698, §3 (AMD). PL 1989, c. 700, §A24 (AMD). PL 1989, c. 710, §1 (AMD). PL 1989, c. 800 (AMD). PL 1989, c. 878, §D4 (AMD). PL 1991, c. 121, §A1 (AMD). PL 1991, c. 360, §§1,2 (AMD). PL 1991, c. 432 (AMD). PL 1991, c. 480, §1 (AMD). PL 1991, c. 528, §§EEE3,4 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §§EEE3,4 (AMD). PL 1991, c. 616 (AMD). PL 1991, c. 618, §2 (AMD). PL 1991, c. 618, §7 (AFF). PL 1991, c. 619, §§1-4 (AMD). PL 1991, c. 619, §18 (AFF). PL 1991, c. 622, §DD1 (AMD). PL 1991, c. 746, §§3-5 (AMD). PL 1991, c. 746, §10 (AFF). PL 1991, c. 780, §FF1 (AMD). PL 1991, c. 824, §A6 (AMD). P&SL 1993, c. 67, §1 (AMD). PL 1993, c. 250, §1 (AMD). PL 1993, c. 386, §1 (AMD). PL 1993, c. 387, §A3 (AMD). PL 1993, c. 410, §§L12,13,RR1 (AMD). PL 1993, c. 482, §§1,2 (AMD). PL 1993, c. 580, §1 (AMD). PL 1993, c. 580, §3 (AFF). PL 1993, c. 595, §3 (AMD). PL 1993, c. 595, §16 (AFF). PL 1995, c. 274, §§1,2 (AMD). PL 1995, c. 462, §A13 (AMD). PL 1995, c. 471, §1 (AMD). PL 1997, c. 355, §1 (AMD). PL 1997, c. 763, §2 (AMD). PL 1997, c. 763, §7 (AFF). PL 1999, c. 152, §E3 (AMD). PL 1999, c. 489, §§1,2 (AMD). PL 1999, c. 731, §CC1 (AMD). PL 2001, c. 118, §1 (AMD). PL 2001, c. 181, §3 (AMD). PL 2001, c. 239, §2 (AMD). PL 2001, c. 239, §5 (AFF). PL 2001, c. 374, §4 (AMD). PL 2001, c. 699, §1 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 486, §3 (AMD). PL 2003, c. 688, §A4 (AMD). PL 2003, c. 693, §1 (AMD). PL 2005, c. 279, §3 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 134, §3 (AMD). PL 2007, c. 491, §§61-67 (AMD). PL 2009, c. 213, Pt. SSS, §1 (AMD). PL

2009, c. 274, §1 (AMD). PL 2009, c. 372, Pt. C, §1 (AMD). PL 2009, c. 474, §11 (AMD). PL 2009, c. 571, Pt. RRR, §1 (AMD). PL 2009, c. 630, §1 (AMD). PL 2011, c. 657, Pt. I, §§1-3 (AMD). PL 2015, c. 385, §2 (AMD). PL 2017, c. 88, §8 (AMD). PL 2017, c. 392, §§1, 2 (AMD). PL 2019, c. 395, §1 (AMD). PL 2019, c. 460, §1 (AMD). PL 2021, c. 6, §1 (AMD). PL 2021, c. 225, §1 (AMD). PL 2021, c. 277, §§11-14 (AMD). PL 2021, c. 277, §45 (AFF). PL 2021, c. 548, §§6, 7 (AMD). PL 2021, c. 548, §45 (REV). RR 2023, c. 2, Pt. B, §92 (COR). PL 2025, c. 221, §§9-15 (AMD). PL 2025, c. 390, Pt. A, §§12-14 (AMD).

SUBCHAPTER 2

GENERAL POLICIES AND INTENT

§17050. Legislative intent

It is the intent of the Legislature to encourage qualified persons to seek public employment and to continue in public employment during their productive years. It is further the intent of the Legislature to assist these persons in making provision for their retirement years by establishing benefits reasonably related to their highest earnings and years of service and by providing suitable disability and death benefits. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17051. Nonapplicability of other retirement benefit laws

A law outside of this Part that provides wholly or in part at the expense of the State or of any subdivision of the State for retirement benefits for employees, or for the surviving spouses or other beneficiaries of those employees, may not apply to members or beneficiaries of any of the programs of the retirement system or to the surviving spouses or other beneficiaries of those members or beneficiaries. A member may not receive service credit toward a benefit under this Part and under another system supported wholly or in part by the State for the same service. [PL 2007, c. 491, §68 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 491, §68 (AMD).

§17052. Mandatory retirement

1. Prohibition. No employee may be required, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.
[PL 1985, c. 801, §§ 5, 7 (NEW).]

2. Normal retirement age. This section may not be construed to prohibit the use of a normal retirement age, except that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person.
[PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§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. [PL 2017, c. 88, §9 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2017, c. 88, §9 (AMD).

§17054. Legal process and assignment

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that: [PL 1987, c. 739, §§4, 48 (AMD).]

1. Retirement allowance available for child support. A member's retirement allowance is available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;
[PL 1991, c. 184, §1 (AMD).]

2. Accumulated contributions available for child support. A member's accumulated contributions that are refundable under sections 17705-A, 17706-A, 18306-A and 18307-A are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;
[PL 2011, c. 606, §8 (AMD).]

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;
[PL 2025, c. 221, §16 (AMD).]

4. Qualified domestic relations order. The rights of a member, retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059; and
[PL 2011, c. 606, §10 (AMD).]

5. Forfeiture and restitution. The rights and benefits of a member or retiree under this Part are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

[PL 2011, c. 606, §11 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 739, §§4,48 (AMD). PL 1991, c. 184, §§1,2 (AMD). PL 1991, c. 746, §§6-8 (AMD). PL 1991, c. 746, §10 (AFF). PL 1993, c. 386, §2 (AMD). PL 2005, c. 560, §1 (AMD). PL 2005, c. 560, §5 (AFF). PL 2007, c. 137, §9 (AMD). PL 2009, c. 322, §1 (AMD). PL 2011, c. 606, §§8-11 (AMD). PL 2021, c. 548, §45 (REV). PL 2025, c. 221, §16 (AMD).

§17054-A. Responsibilities of employers and the retirement system

Employers are responsible for providing procedures by which employees for whom membership in the retirement system is optional make a membership election, for maintaining all records relevant to the election process and an individual employee's election and for informing the retirement system as to employee elections in accordance with procedures established by the chief executive officer. The retirement system is responsible to ensure that its records accurately reflect the information provided by the employer. With respect to matters related to participation and membership in the retirement system other than those specified in this section, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the employer and the employees to whom this Part applies, including the authority to make final administrative decisions on membership eligibility based on employee membership elections as reported by the employer pursuant to this section, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and United States Treasury regulations applicable to governmental qualified defined benefit plans. [PL 2021, c. 548, §8 (AMD).]

SECTION HISTORY

PL 2009, c. 474, §12 (NEW). PL 2021, c. 548, §8 (AMD).

§17055. Beneficiary who is an incapacitated person or a minor

For the purposes of this Part: [PL 1985, c. 801, §§ 5, 7 (NEW).]

1. Election of benefit. If a beneficiary is not lawfully qualified to make an election, the election must be made for the beneficiary by the person authorized to do so by Title 18-C, Article 5; and
[PL 2017, c. 402, Pt. C, §14 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Payment of benefit. Payment of any benefit to an individual subject to guardianship, as defined in Title 18-C, section 5-102, or a minor must be made in accordance with Title 18-C, Article 5.
[PL 2017, c. 402, Pt. C, §14 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2017, c. 402, Pt. C, §14 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§17056. Superior Court employees

1. Transfer to state employee account. Notwithstanding sections 18202 and 18408, funds held by the retirement system to the credit of employees of any Superior Court who became employees of the State pursuant to Public Law 1975, chapters 383 and 408, shall be transferred on the records of the retirement system to the state employee account.
[PL 1989, c. 399, §1 (AMD).]

2. Vote.

[PL 1989, c. 399, §2 (RP).]

3. Creditable service. Creditable service shall be determined as follows.

A. Creditable service for employees described in subsection 1 shall be determined as if their service had been rendered as state employees. [PL 1985, c. 801, §§ 5, 7 (NEW).]

B. Creditable service for former employees of any Superior Court who retired after July 1, 1976, shall be determined as if all their service had been rendered as state employees. [PL 1989, c. 399, §3 (AMD).]

[PL 1989, c. 399, §3 (AMD).]

4. Additional funds. If, after review by the actuary of the State Employee and Teacher Retirement Program, it is determined that additional funds are required to finance in full the accrued retirement benefits for employees described in this section:

A. The actuary shall estimate the amount of additional funds necessary to provide full retirement benefits for the period before July 1, 1976; and [PL 1985, c. 801, §§ 5, 7 (NEW).]

B. The counties shall provide funds necessary to fulfill this obligation from the retirement allowance funds of those counties. [PL 1989, c. 399, §4 (AMD).]

[PL 2007, c. 491, §69 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 399, §§1-5 (AMD). PL 2007, c. 491, §69 (AMD).

§17057. Information not public record

1. Medical information. Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451, subsection 2.

[PL 2017, c. 46, §1 (AMD).]

2. Financial and personal information. The following private financial and personal information of members, beneficiaries or participants in any of the programs of the retirement system in the possession of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3:

A. Information regarding member, beneficiary or participant accounts with financial institutions, including account numbers; [PL 2017, c. 46, §2 (NEW).]

B. Information regarding member and beneficiary election of payment methods, including elected deductions from those payments; [PL 2017, c. 46, §2 (NEW).]

C. Information regarding participation in defined contribution or deferred compensation plans, including account numbers, investment allocations, contributions, distributions and balances; [PL 2017, c. 46, §2 (NEW).]

D. Information regarding designated beneficiaries; and [PL 2017, c. 46, §2 (NEW).]

E. Information regarding a participant's amount of insurance coverage or group life insurance. [PL 2017, c. 46, §2 (NEW).]

[PL 2017, c. 46, §2 (RPR).]

3. Home contact information. Except as provided in this subsection, records of home contact information of members and benefit recipients of any of the programs of the retirement system and of

staff members that are in the possession of the retirement system are confidential, not open to public inspection and not public records as defined in Title 1, section 402, subsection 3.

A. For purposes of this subsection, "home contact information" means a home address, home telephone number, home facsimile transmission number or home e-mail address. [PL 2003, c. 632, §1 (NEW).]

B. [PL 2007, c. 47, §1 (RP).]

C. This subsection does not apply to the home address of a member or a benefit recipient of any of the programs of the retirement system used only for membership recruitment purposes by a nonprofit or public organization established to provide programs, services and representation to Maine public sector retirees unless the retirement system member or benefit recipient has signed a form made available by the retirement system indicating that the individual does not authorize disclosure of that individual's home address. The retirement system may not provide information under this subsection to an organization if the retirement system has determined that the organization obtained information for the purpose of membership recruitment but used the information for a purpose other than membership recruitment. [PL 2007, c. 491, §70 (AMD).]

[PL 2007, c. 491, §70 (AMD).]

4. Investment activity information. Disclosure of private market investment activity of the retirement system is governed by this subsection.

A. Documentary material, data or information in the possession of the retirement system that consists of trade secrets or commercial or financial information that relates to actual or potential private market investments of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3 if, in the sole discretion of the retirement system, the disclosure of the material, data or information may:

(1) Impair the retirement system's ability to obtain such material, data or information in the future;

(2) Cause substantial harm to the competitive position of the retirement system or of the person or entity from whom the information was obtained; or

(3) Result in the potential violation of state and federal laws and regulations relating to insider trading. [PL 2011, c. 449, §1 (AMD).]

B. The following information concerning any fund in which the retirement system is invested is not exempt from disclosure:

(1) The retirement system's total commitment to the fund;

(2) The date of the commitment to the fund;

(3) Contributions and distributions made to or received from the fund;

(4) The market value of the investment;

(5) The name of the fund; and

(6) The interim internal rate of return of the fund. [PL 2011, c. 449, §1 (AMD).]

C. For purposes of this subsection, "private market investment" means:

(1) Direct investments in land, timber, mineral rights, private company equity or private company debt;

(2) Indirect investments in limited partnerships, limited liability corporations or other entities that may invest in the investments described in subparagraph (1);

(3) Investments in unregistered securities or funds offered under exemptions provided in Section 144(A) of the Securities Act of 1933, as amended, or Section 3(c)1 or 3(c)7 of the Investment Company Act of 1940, as amended; or

(4) Investments or potential investments of the retirement system pursuant to the state innovation finance program authorized under Title 10, section 1026-T. [PL 2011, c. 449, §1 (NEW).]

[PL 2011, c. 449, §1 (AMD).]

5. Personnel records of Maine Public Employees Retirement System staff. The following records are confidential and not open to public inspection and are not public records as defined in Title 1, section 402, subsection 3:

A. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the retirement system for use in the examination or evaluation of applicants for positions as retirement system employees, are confidential.

(1) Notwithstanding any confidentiality provision to the contrary, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude a union representative from access to personnel records, consistent with paragraph D, that may be necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open to public inspection; [PL 2011, c. 449, §2 (NEW).]

B. Personal information. Records containing the following information are confidential, except that the records may be examined by the employee to whom they relate when the examination is permitted or required by law:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability, marital status, sexual orientation and gender identity; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance; and

(6) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer

confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written decision, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days.

This paragraph does not preclude a union representative from having access to personnel records that are necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open for public inspection; [PL 2021, c. 366, §24 (AMD).]

C. Other information to which access by the general public is prohibited by law; and [PL 2011, c. 449, §2 (NEW).]

D. Certain information for grievance and other proceedings. The retirement system may release specific information designated confidential by this paragraph to be used in negotiations, mediation, fact finding, arbitration, grievance proceedings and other proceedings in which the retirement system is a party. For the purpose of this paragraph, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings. [PL 2011, c. 449, §2 (NEW).]

[PL 2021, c. 366, §24 (AMD).]

6. Treatment of confidential information. Confidential information provided under subsection 5 is governed by the following.

A. Only the information that is necessary and directly related to the proceeding may be released. [PL 2011, c. 449, §2 (NEW).]

B. The proceeding for which the confidential information is provided must be private and not open to the public if possible. If the proceeding is open to the public, the confidential information may not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [PL 2011, c. 449, §2 (NEW).]

C. The retirement system may use this confidential information in proceedings and provide copies to an employee organization if that organization is a party to the proceedings and the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the retirement system are not open to public inspection and are not public records. [PL 2011, c. 449, §2 (NEW).]

[PL 2011, c. 449, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 76 (NEW). PL 1991, c. 480, §2 (RPR). PL 1991, c. 580, §2 (AMD). PL 1991, c. 824, §A7 (RPR). PL 2003, c. 632, §1 (AMD). PL 2005, c. 149, §§1,2 (AMD). PL 2007, c. 47,

§§1, 2 (AMD). PL 2007, c. 491, §70 (AMD). RR 2009, c. 2, §3 (COR). PL 2009, c. 633, §1 (AMD). PL 2011, c. 449, §§1, 2 (AMD). PL 2017, c. 46, §§1, 2 (AMD). PL 2021, c. 366, §24 (AMD).

§17058. Information for administrative or judicial proceedings

If information regarding the availability, calculation or value of any benefit is required for an administrative or judicial proceeding, the party seeking the information must file written questions requesting that information with the chief executive officer. The chief executive officer, or the chief executive officer's designee, shall make a certified response to those questions within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the retirement system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony. [PL 1991, c. 580, §3 (NEW); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 1991, c. 580, §3 (NEW). PL 2021, c. 548, §45 (REV).

§17059. Qualified domestic relations orders

1. Determination by chief executive officer. The chief executive officer or the chief executive officer's designee has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order under this section. A determination by the chief executive officer or the chief executive officer's designee under this section may be appealed to the board as provided by section 17451.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF); PL 2021, c. 548, §45 (REV).]

2. No jurisdiction over retirement system. The retirement system may not be made a party with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the retirement system is created or established. A party to such an action who attempts to make the retirement system a party to the action contrary to this subsection is liable to the retirement system for its costs and attorney's fees.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

3. Benefits and withdrawal of contributions. For the purposes of this section, benefits payable with respect to a member or retiree under any of the programs of the retirement system include the types of benefits payable by the retirement system and a withdrawal of contributions from the retirement system.
[PL 2007, c. 491, §71 (AMD).]

4. Requirements. A domestic relations order is a qualified domestic relations order only if the order:

A. Clearly specifies the name, social security number and last known mailing address, if any, of the member or retiree and the name, social security number and mailing address of each alternate payee covered by the order; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

B. Clearly specifies the amount or percentage of the member's or retiree's benefits to be paid by the retirement system to each alternate payee or the manner in which the amount or percentage is to be determined; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

C. Clearly specifies the number of payments or the period to which the order applies; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

D. Clearly specifies that the order applies to the retirement system; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

E. Does not require the retirement system to provide a type or form of benefit or an option not otherwise provided by the retirement system; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

F. Does not require the retirement system to provide increased benefits determined on the basis of actuarial value; [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

G. Does not require the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

H. Does not require the payment of benefits to an alternate payee before the retirement of a member other than when the payee reaches the member's normal retirement age, the distribution of a withdrawal of contributions to a member or other distribution to a member required by law. [PL 2015, c. 322, §1 (AMD).]

[PL 2015, c. 322, §1 (AMD).]

5. Additional criteria. The board may also require by rule that a qualified domestic relations order meet one or more of the following requirements.

A. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event of the retirement of the member before normal retirement age. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

B. The order may not purport to require the designation of a particular person as the recipient of benefits in the event of a member's or retiree's death. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

C. The order may not purport to require the selection of a particular benefit payment plan or option. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

D. The order must provide clearly for each possible benefit distribution under plan provisions. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

E. The order may not require any action on the part of the retirement system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee or the direct payment of the benefit awarded to an alternate payee before the retirement of a member and when the payee reaches the member's normal retirement age. [PL 2015, c. 322, §2 (AMD).]

F. The order may not make the award of an interest contingent on any condition other than those conditions resulting in the liability of the retirement system for payments under its plan provisions. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

G. The order may not purport to award any future benefit increases that are provided or required by the Legislature. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

H. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the retiree or member are reduced by law. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

[PL 2015, c. 322, §2 (AMD).]

6. Determination. The chief executive officer or the chief executive officer's designee, upon receipt of a certified copy of a domestic relations order and written request for a determination, shall determine whether the order is a qualified domestic relations order and shall notify the member or retiree and each alternate payee of the determination.

A. If the order is determined to be a qualified domestic relations order, it is presumed to be in compliance with all requirements of this Part. The retirement system shall pay benefits in

accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant or beneficiary or the retirement system, notwithstanding any provision of law to the contrary or any policy or procedure the retirement system employs in the implementation of this Part. [PL 2005, c. 560, §2 (AMD); PL 2005, c. 560, §5 (AFF).]

B. If the order is determined not to be a qualified domestic relations order, the member or retiree or any alternate payee named in the order may appeal the chief executive officer's determination in the manner specified in section 17451 or may petition the court that issued the order to amend the order so that it is qualified. Except as otherwise provided by law, the court that issued the order or that otherwise would have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF); PL 2021, c. 548, §45 (REV).]

[PL 2005, c. 560, §2 (AMD); PL 2005, c. 560, §5 (AFF); PL 2021, c. 548, §45 (REV).]

7. Interim accounting. During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the chief executive officer, the chief executive officer's designee, the board, a court of competent jurisdiction or otherwise, the retirement system shall account separately for the amounts, in this section referred to as the "segregated amounts," that would have been payable to the alternate payee during that period if the order had been determined to be a qualified domestic relations order.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF); PL 2021, c. 548, §45 (REV).]

8. Payment of segregated amounts. If a domestic relations order is determined to be a qualified domestic relations order, the retirement system shall pay the segregated amounts to the person or persons entitled to the segregated amounts and shall thereafter pay benefits pursuant to the order.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

9. Payments if determined not qualified or if no determination within 18 months. If a domestic relations order is determined not to be a qualified domestic relations order or if the issue as to whether a domestic relations order is a qualified domestic relations order is not resolved within 18 months of the date the order and written request for a determination are received by the retirement system, the retirement system shall pay the segregated amounts without interest, and shall thereafter pay benefits, to the person or persons who would have been entitled to such amounts if there had been no order. This subsection may not be construed to limit or otherwise affect any liability, responsibility or duty of a party with respect to any other party to the action from which the order arose.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

10. Determination after 18 months. Any determination that an order is a qualified domestic relations order that is made after the close of the 18-month period established in subsection 9 must be applied prospectively only.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

11. No liability. The retirement system, the board and officers and employees of the retirement system are not liable to any person for making payments of any benefits in accordance with a domestic relations order in a cause of action in which a member or a retiree was a party or for making payments in accordance with subsection 9.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

12. Information provided to spouse. Upon being furnished with an attested copy of a complaint for divorce, the retirement system shall provide the spouse of a member with the same information that would be provided to the member.

[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

13. Rules. The board may adopt rules to implement this section. The rules may provide for charging a reasonable fee for processing domestic relations orders.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

14. Application. This section applies to all domestic relations orders issued after March 27, 1992 and, with the mutual consent of the parties, to any domestic relations orders issued on or before March 27, 1992.
[RR 1997, c. 2, §20 (COR).]

SECTION HISTORY

PL 1991, c. 746, §9 (NEW). PL 1991, c. 746, §10 (AFF). RR 1997, c. 2, §20 (COR). PL 2005, c. 560, §2 (AMD). PL 2005, c. 560, §5 (AFF). PL 2007, c. 491, §71 (AMD). PL 2015, c. 322, §§1, 2 (AMD). PL 2021, c. 548, §45 (REV).

§17060. Life annuity or lump-sum payment in lieu of benefits awarded by qualified domestic relations order

1. Annuity or lump sum. The board may by rule provide that, in lieu of paying an alternate payee the interest awarded by a qualified domestic relations order, the retirement system may pay the alternate payee an amount that is the actuarial equivalent of that interest in the form of:

A. An annuity payable in equal monthly installments for the life of the alternate payee; or [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

B. A lump sum. [PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

2. Determination by retirement system. The determination of whether to pay an amount authorized by this section in lieu of the interest awarded by the qualified domestic relations order is within the exclusive discretion of the retirement system.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

3. Reduced payment to member, retiree or beneficiary. If the retirement system elects to pay the alternate payee pursuant to this section, the benefit payable by the retirement system to the member, retiree or beneficiary must be reduced by the interest in the benefit awarded to the alternate payee by the qualified domestic relations order.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

4. Reliance on designation or selection. If the retirement system pays the alternate payee pursuant to this section, the retirement system is entitled to rely on a beneficiary designation or benefit option selection made or changed pursuant to its plan without regard to any domestic relations order.
[PL 1991, c. 746, §9 (NEW); PL 1991, c. 746, §10 (AFF).]

SECTION HISTORY

PL 1991, c. 746, §9 (NEW). PL 1991, c. 746, §10 (AFF).

§17061. Termination of interest in retirement system

The death of an alternate payee as defined in section 17001, subsection 3-B terminates the interest of the alternate payee in the retirement system. This section does not affect an interest in the retirement system accrued to an individual as a member of a retirement program of the retirement system. [PL 2007, c. 491, §72 (AMD).]

SECTION HISTORY

PL 1991, c. 746, §9 (NEW). PL 1991, c. 746, §10 (AFF). PL 2007, c. 491, §72 (AMD).

§17062. Forfeiture of benefits for crime; restitution

1. Crime. If a member is convicted of or pleads guilty or no contest to a crime committed in connection with the member's public office or public employment or to a crime the member's position placed the member in a position to commit, the member's right to receive any benefit or payment of any kind under this Part is subject to the following.

A. If the penalties for the crime are greater than or equal to the penalties for a Class C crime, the court may order the forfeiture of the member's right to receive any benefit or payment of any kind under this Part except a return of the amount contributed by the member to the retirement system without interest, subject to paragraph B. [PL 2011, c. 606, §12 (NEW).]

B. If the court orders the member to make restitution to the State or any political subdivision of the State for monetary loss incurred as a result of the crime, the court may order that restitution payments be made by the retirement system from the amount contributed by the member to the retirement system. [PL 2011, c. 606, §12 (NEW).]

C. Subject to the requirements of subsection 2, the court may award to the member's spouse, dependent or former spouse as an alternate payee some or all of the amount that, but for the forfeiture under paragraph A, may otherwise be payable. Upon order of the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this paragraph. In determining the award, the court shall consider the totality of the circumstances, including, but not limited to:

(1) The role, if any, of the member's spouse, dependent or former spouse in connection with the crime;

(2) The degree of knowledge, if any, possessed by the member's spouse, dependent or former spouse in connection with the crime; and

(3) The extent to which the spouse, dependent or former spouse was relying on the forfeited benefits. [PL 2011, c. 606, §12 (NEW).]

[PL 2011, c. 606, §12 (NEW).]

2. Benefit award requirements. An award ordered under subsection 1, paragraph C may not require the retirement system to:

A. Provide a type or form of benefit or an option not otherwise provided by the retirement system; [PL 2011, c. 606, §12 (NEW).]

B. Provide increased benefits determined on the basis of actuarial value; or [PL 2011, c. 606, §12 (NEW).]

C. Take an action contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent or former spouse. [PL 2011, c. 606, §12 (NEW).]

[PL 2011, c. 606, §12 (NEW).]

SECTION HISTORY

PL 2011, c. 606, §12 (NEW).

SUBCHAPTER 3

ESTABLISHMENT AND ADMINISTRATION

§17101. Establishment

1. Purpose. There is established a retirement system, the functions and operations of which are under the supervision of the board, for the purpose of providing retirement allowances and other benefits under this Part for employees.

[PL 1993, c. 410, Pt. L, §14 (AMD).]

2. Name. The retirement system is known as the "Maine Public Employees Retirement System" and by that name all of its business must be transacted, all of its funds invested and all of its cash and securities and other property held in trust for the purpose for which received.
[PL 2007, c. 58, §1 (AMD).]

3. Date of establishment. The date of establishment of the retirement system is:

A. July 1, 1942, for all employees who were employed by the State before July 1, 1947; [PL 1985, c. 801, §§ 5, 7 (NEW).]

B. July 1, 1947, for employees employed for the first time after July 1, 1947; [PL 1985, c. 801, §§ 5, 7 (NEW).]

C. July 1, 1947, for all teachers employed as teachers before July 1, 1947; [PL 1985, c. 801, §§ 5, 7 (NEW).]

D. The date of participation set by the participating local district under section 18201; or [PL 1985, c. 801, §§ 5, 7 (NEW).]

E. The date on which contributions were first made to any retirement system supported in whole or in part by the State, for all other employees. [PL 1985, c. 801, §§ 5, 7 (NEW).]
[PL 1985, c. 801, §§ 5, 7 (NEW).]

4. Corporation.

[PL 1993, c. 410, Pt. L, §15 (RP).]

5. Body corporate and politic. The retirement system is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part are held to be the performance of essential government functions.
[PL 1993, c. 410, Pt. L, §16 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1993, c. 410, §§L14-16 (AMD). PL 2007, c. 58, §1 (AMD).

§17102. Board of trustees

1. Composition. The Board of Trustees of the Maine Public Employees Retirement System, established by section 12004-F, subsection 9, is composed of 8 trustees, as follows:

A. The Treasurer of State or the Deputy Treasurer of State; [PL 1997, c. 625, §1 (AMD).]

B. A person who is a member of the State Employee and Teacher Retirement Program of the retirement system through employment as a teacher and who is duly elected by the Maine Education Association; [PL 2007, c. 491, §73 (AMD).]

C. A person who is a member of the State Employee and Teacher Retirement Program of the retirement system through employment as a state employee and who is duly elected by the Maine State Employees' Association; [PL 2007, c. 491, §74 (AMD).]

D. Four persons appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature:

(1) At least 2 of whom must be qualified through training or experience in the field of investments, accounting, banking or insurance or as actuaries;

(2) One of whom must be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association; and

(3) One of whom must be the recipient of a retirement allowance through the retirement system and be selected from a list or lists of nominees submitted by retired state employees, retired participating local district employees, the Maine Association of Retirees or a committee composed of representatives of these groups; and [PL 2021, c. 548, §9 (AMD).]

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. [PL 2017, c. 88, §10 (AMD).]

F. [PL 1987, c. 715, §5 (RP).]

The names of proposed trustees elected or appointed under paragraph B, C or E must be submitted to the Legislature by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature. A member who is elected or appointed may serve in the position of trustee from the date of election or appointment unless the Legislature rejects the confirmation.

Each trustee subject to paragraphs B to E must have a working knowledge of retirement policy and legal issues and a general knowledge and understanding of banking, finance and investment practices. [RR 2021, c. 2, Pt. A, §9 (COR).]

1-A. Retirement system employees ineligible. The chief executive officer and the employees of the retirement system may not serve on the board of trustees.
[PL 1989, c. 483, Pt. A, §25 (NEW); PL 2021, c. 548, §45 (REV).]

2. Chair. The board shall elect from its membership a chair.
[RR 2023, c. 2, Pt. B, §93 (COR).]

3. Term. The terms of the trustees shall be determined as follows.

A. Each trustee, except the Treasurer of State, shall serve a term of 3 years. [PL 1985, c. 801, §§5, 7 (NEW).]

B. A trustee shall continue to serve after the expiration of the trustee's term until a successor is appointed and qualified, but the trustee's continuation as a trustee does not change the expiration date of the trustee's term. [RR 2023, c. 2, Pt. B, §94 (COR).]

C. The term of a trustee appointed to succeed a trustee whose term has expired shall begin on the day after the expiration date of the 3-year term of the previous trustee, regardless of the effective date of the new appointment. [PL 1985, c. 801, §§5, 7 (NEW).]

D. Appointments to any vacancy caused by death, resignation or ineligibility shall be for the unexpired portion of the term. [PL 1985, c. 801, §§5, 7 (NEW).]
[RR 2023, c. 2, Pt. B, §94 (COR).]

4. Oath. Each trustee shall, within 30 days after the trustee's appointment, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine.

A. The oath must be subscribed to by the trustee making it. [PL 2001, c. 181, §4 (AMD).]

B. The oath must be certified by the officer before whom it was taken and immediately filed in the office of the Secretary of State. [PL 2001, c. 181, §4 (AMD).]
[PL 2001, c. 181, §4 (AMD).]

5. Transaction of business. The transaction of business by the board is governed as follows.

A. Five trustees constitute a quorum for the transaction of any business. [PL 1997, c. 625, §2 (AMD).]

B. Each trustee is entitled to one vote. [PL 1997, c. 625, §2 (AMD).]

C. Five votes are necessary for any resolution or action by the board at any meeting of the board. [PL 1997, c. 625, §2 (AMD).]

[PL 1997, c. 625, §2 (AMD).]

6. Compensation. The trustees shall be compensated, as provided in chapter 379, from the funds of the retirement system. For the purposes of this subsection, "administrative leave" means an excused absence from work during the employee's normal work schedule for which the employee does not receive a reduction in compensation, except that it does not include the use of earned vacation time specified by the employment contract; "public employee trustee" means a trustee selected or elected according to subsection 1, paragraph B, C or E, or an employee as that term is defined by section 17001, subsection 14. Notwithstanding section 12004-F, subsection 9, certain trustees shall be compensated as follows. The employer of a public employee trustee shall grant administrative leave at the request of that trustee in order for that trustee to attend an activity compensable under section 12002-B. If administrative leave is granted to the trustee, then the trustee shall not receive per diem authorized under chapter 379 and an amount equal to the legislative per diem which would otherwise be paid from the funds of the retirement system to the trustee shall be paid directly to that person's employer, unless the employer is the State.

[PL 1989, c. 483, Pt. A, §26 (RPR).]

7. Expenses. All administrative costs and expenses attributable to the administrative operating budget of the retirement system must be charged against the assets of the applicable fund.

[PL 2015, c. 385, §3 (RPR).]

8. Legal advisor. The Attorney General or an assistant designated by the Attorney General shall be legal advisor to the board.

[PL 1985, c. 801, §§5, 7 (NEW).]

9. Record. The board shall keep a record of all its proceedings, which:

A. Shall comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061, to the extent those laws are applicable; and [PL 1985, c. 801, §§5, 7 (NEW).]

B. Shall be open to public inspection. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1985, c. 801, §§5, 7 (NEW).]

10. Reports. The board shall publish annually for each fiscal year:

A. A report showing the fiscal transactions of the retirement system for the fiscal year and the assets and liabilities of each of the programs of the retirement system at the end of the fiscal year; and [PL 2007, c. 491, §76 (AMD).]

B. The actuary's report on the actuarial valuation of the financial condition of each of the programs of the retirement system for the fiscal year. [PL 2007, c. 491, §76 (AMD).]

[PL 2007, c. 491, §76 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5, 7 (NEW). PL 1987, c. 256, §4 (AMD). PL 1987, c. 715, §§4,5 (AMD). PL 1989, c. 483, §§A25,A26 (AMD). PL 1989, c. 503, §B33 (AMD). P&SL 1993, c. 67, §1 (AMD). PL 1993, c. 410, §L17 (AMD). PL 1995, c. 3, §1 (AMD). PL 1997, c. 625, §1 (AMD). PL 1997, c. 625, §2 (AMD). PL 2001, c. 181, §4 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. U, §5 (AMD). PL 2007, c. 491, §§73-76 (AMD). PL 2015, c. 385, §3 (AMD). PL 2017, c. 88, §10 (AMD). PL 2021, c. 548, §9 (AMD). PL 2021, c. 548, §45 (REV). RR 2021, c. 2, Pt. A, §9 (COR). RR 2023, c. 2, Pt. B, §§93, 94 (COR).

§17103. Duties of the board of trustees

In addition to other duties set out in this Part, the board shall have the following duties. [PL 1985, c. 801, §§5, 7 (NEW).]

1. Operation of retirement system. The board shall have responsibility for the proper operation of the retirement system and for making this Part effective.
[PL 1985, c. 801, §§5, 7 (NEW).]

2. Policy-making and supervision. The board shall formulate policies and exercise general supervision under this Part.
[PL 1985, c. 801, §§5, 7 (NEW).]

3. Meeting. The board shall meet as it determines necessary for the transaction of such business as may properly come before it.
[PL 2017, c. 88, §11 (AMD).]

4. Rules. Subject to the limitations of this Part, and subject to the requirements of chapter 375, subchapter II, to the extent those requirements are applicable, the board shall, from time to time, establish rules for the administration of the funds created by this Part and for the transaction of business, including rules establishing the requirements for a beneficiary to qualify as a full-time student.
[PL 1985, c. 801, §§5, 7 (NEW).]

5. Determination of employee. In all cases of doubt, the board shall determine whether any person is an employee.
[PL 1985, c. 801, §§5, 7 (NEW).]

6. Rights, credits, privileges and membership eligibility; decisions. The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of all programs of the retirement system whether in participating local districts or in the state service. The board shall also in all cases make the final and determining administrative decision on membership eligibility based on employee membership elections as reported by the employer pursuant to section 17054-A, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and United States Treasury regulations applicable to governmental qualified defined benefit plans. The board otherwise has no jurisdiction to hear a matter or make an administrative decision regarding a claim of an employee of a local plan for which membership is optional pursuant to section 18252, if that claim applies to a time when the employee was not a member of the retirement system.

Whenever the board finds that, because of an error or omission on the part of the employer of a member or retired member, a member or retired member is required to make a payment or payments to the retirement system, the board may waive payment of all or part of the amount due from the member or retired member. In these instances of recovery of overpayments from members of the retirement system, the retirement system is governed by section 17054, subsection 3.
[PL 2021, c. 548, §10 (AMD).]

6-A. Communication between the board and members of the retirement system. Communications between the board and members of the retirement system are governed by this subsection.

A. The board shall make all members aware of the requirements in law or rule and any changes to these requirements governing retirees, disability benefits and any other benefits provided by the retirement system. All retirement information provided to retirement system members must be provided by highly competent individuals well-trained and knowledgeable about the benefits and requirements of the retirement system in both law and rules, including requirements to qualify for disability retirement, and including information provided by individuals representing participating local districts to members. The board shall provide applicants for retirement or disability status with materials summarizing the most significant requirements and restrictions in state laws and rules to include, at a minimum, retirement benefits, postretirement employment and responsibilities of retirees. These materials must be clearly written in simple and understandable terms. [PL 2009, c. 322, §3 (NEW).]

B. In the event that a member requests to retire before normal retirement age, it is the primary responsibility of the retirement system to ensure through all feasible means that the member is informed of all the restrictions related to early retirement. [PL 2009, c. 322, §3 (NEW).]

[PL 2009, c. 322, §3 (NEW).]

7. Administrative and financial decisions. The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system and direct cash receipts as it considers appropriate, notwithstanding section 131. Notwithstanding any other provision of law, the board, as the employer of the staff of the retirement system and as the executive body, shall establish policies and make decisions on matters pertaining to the administration and operations of the Maine Public Employees Retirement System as an independent agency, including, but not limited to, personnel and payroll, accounting and financial matters, acquisition and disposition of capital assets and data processing. The board may delegate these duties and responsibilities as it considers appropriate. Board policies regarding the operation of its administrative offices must be consistent with applicable state and federal health and safety requirements.

A. If the decision is related to or results in rules, rules must be adopted as provided in subsection 4. [PL 1993, c. 410, Pt. L, §18 (AMD).]

B. If the decision determines the rights, credits or privileges of an individual member or group of members, the determination is considered an adjudicatory proceeding under chapter 375, subchapter 4 and may be made only after the giving of notice as required in that subchapter and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. A hearing must be conducted in accordance with chapter 375. [PL 2007, c. 249, §10 (AMD).]

[PL 2007, c. 58, §3 (REV); PL 2007, c. 249, §10 (AMD).]

8. Chief executive officer. The board shall appoint a chief executive officer, whose salary must be set by the board subject to the requirements of Title 2, section 6-D.

[PL 2021, c. 548, §11 (AMD).]

9. Review of statutory amendments. The board shall review all amendments to this Part that are proposed to be enacted by the Legislature and shall report to the proper legislative committee or authority on the impact of each of those amendments on the retirement system.

A. The report shall state the impact of each amendment on all aspects of the retirement system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, the amendment's consistency with other provisions of this Part and the value of the amendment to the retirement system. [PL 1985, c. 801, §§5, 7 (NEW).]

B. When determined necessary by the retirement system or directed by the legislative committee or a member of that committee, the report on each amendment must include a separate evaluation by the actuary. [PL 1993, c. 595, §4 (AMD).]

[PL 1993, c. 595, §4 (AMD).]

10. Review of special resolves. The board shall review, in the manner described in subsection 9, all special resolves or other legislation which propose to grant benefits to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this Part but for the enactment of the special resolve or other legislation.

[PL 1985, c. 801, §§5, 7 (NEW).]

11. Report to Legislature. The board shall make a written report to the appropriate legislative committee on or before March 1st of each year that must contain:

A. A discussion of any areas of policy or administration that, in the opinion of the board, should be brought to the attention of the committee; [PL 1997, c. 651, §3 (AMD).]

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; [PL 2017, c. 88, §12 (AMD).]

C. [PL 2015, c. 385, §4 (RP).]

D. A review of the operations of the retirement system, including a summary of administrative expenses and improvements in the delivery of services to members of the retirement system; [PL 2009, c. 322, §4 (AMD).]

E. A budget report showing the budget status of the administrative operations and functions of the system for the current fiscal year relative to the budget for the current fiscal year; [PL 2009, c. 322, §4 (AMD).]

F. The number of individuals who retired in the previous calendar year categorized by plan status; [PL 2009, c. 322, §4 (NEW).]

G. The number of new active members of the retirement system who became members during the previous year, by plan status; [PL 2009, c. 322, §4 (NEW).]

H. The amount of earnings on investment in the previous calendar year; [PL 2009, c. 322, §4 (NEW).]

I. The total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; [PL 2021, c. 548, §12 (AMD).]

J. The number of persons who applied for disability retirement during the previous calendar year including:

(1) The number of applicants for disability retirement who were awarded benefits at the application stage;

(3) The number of applicants for disability retirement who appealed decisions that denied disability retirement status; and

(4) The number of applicants who were granted disability retirement following their appeals; and [PL 2021, c. 548, §§13-15 (AMD).]

K. Data from a survey of members and employees that measures the level of satisfaction and experience that members and employees have with the retirement system. For the purposes of this paragraph, "employee" means an employee of the retirement system. [PL 2021, c. 548, §16 (NEW).]

[PL 2021, c. 548, §§12-16 (AMD).]

12. Defined contribution, deferred compensation and tax sheltered annuity plans. The board shall establish one or more defined contribution, deferred compensation or tax sheltered annuity plans consistent with the applicable requirements of the Internal Revenue Code and may, with employer agreement, offer participation in such plans to employees eligible for membership in a retirement program of the retirement system and to employees of the Maine Retirement Savings Board.
[PL 2023, c. 167, §15 (AMD).]

13. Budget. By June 15th, annually, the board shall adopt an operating budget for the subsequent fiscal year.
[PL 2017, c. 88, §13 (RPR).]

14. Collective bargaining agreements.
[PL 2015, c. 385, §5 (RP).]

SECTION HISTORY

PL 1985, c. 801, §§5, 7 (NEW). PL 1987, c. 247, §§5,6 (AMD). PL 1989, c. 483, §§A27-30,A63 (AMD). PL 1989, c. 677, §§1,3 (AMD). PL 1993, c. 387, §A4 (AMD). PL 1993, c. 410, §§L18-22 (AMD). PL 1993, c. 595, §4 (AMD). PL 1997, c. 651, §3 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 249, §10 (AMD). PL 2007, c. 491, §77 (AMD). PL 2009, c. 322, §§2-4 (AMD). PL 2015, c. 384, §1 (AMD). PL 2015, c. 385, §§4, 5 (AMD). PL 2017, c. 88, §§11-13 (AMD). PL 2021, c. 548, §§10-17 (AMD). PL 2023, c. 167, §15 (AMD).

§17104. Powers of the board of trustees

In addition to other powers set forth in this Part, the board may employ or contract with persons for investment counsel or advice and for other expert, professional or other assistance as may be appropriate to aid in carrying out the board's functions. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17105. Chief executive officer

1. Duties. In addition to other duties set out in this Part, the chief executive officer, as appointed under section 17103, subsection 8, shall have the following duties.

A. The chief executive officer shall have administrative responsibility for the retirement system, including responsibility for the approval of the payment of all benefits under this Part. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

B. The chief executive officer shall obtain whatever services are required to transact the business of the retirement system. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

C. The chief executive officer shall keep in convenient form whatever data are necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of each of the programs of the retirement system. [PL 2007, c. 491, §78 (AMD); PL 2021, c. 548, §45 (REV).]

D. Whenever the chief executive officer determines that a fraud, attempted fraud or a violation of law in connection with funds administered by the retirement system may have occurred, the chief executive officer shall:

(1) Report in writing all information concerning the fraud or violation to the Attorney General or the Attorney General's designee for such action as the Attorney General may determine appropriate, including civil action for recovery of funds and criminal prosecution by the Attorney General; and

(2) Upon request of the Attorney General and in such a manner as the Attorney General determines appropriate, assist in the recovery of funds. [RR 2023, c. 2, Pt. B, §95 (COR).]

E. The chief executive officer shall cause to be delivered to each participating local district a written notice setting forth the amendments or additions to this Part and shall require from each participating local district an acknowledgment of receipt of that notice. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

F. Upon discovery of any error in any record of the retirement system, the chief executive officer shall, to the extent practicable, correct the record. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

G. [PL 2007, c. 249, §11 (RP).]
[RR 2023, c. 2, Pt. B, §95 (COR).]

2. Powers. In addition to other powers granted to the chief executive officer by this Part, the chief executive officer shall have the following powers.

A. The chief executive officer may request from the head of any department information required to administer this Part and, upon such a request, the head of the department shall promptly furnish the information requested. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

B. Whenever the chief executive officer finds it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, the chief executive officer may, subject to the approval of the actuary, use estimates on any basis which, in the chief executive officer's judgment, is fair and just. [PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

C. The chief executive officer, with the approval of the board, may delegate the duties and powers given to the chief executive officer by this Part to the retirement system staff. [PL 1993, c. 387, Pt. A, §5 (NEW); PL 2021, c. 548, §45 (REV).]

[PL 1993, c. 387, Pt. A, §5 (AMD); PL 2021, c. 548, §45 (REV).]

3. Staff. The chief executive officer shall employ personnel as necessary and in accordance with board policy to transact the business of the system, which may include a general counsel. Additional attorneys may be employed to assist the general counsel with the approval of the Attorney General. The duties of the general counsel and any assistant counsel must be consistent with the terms of a memorandum of understanding between the chief executive officer and the Attorney General.
[PL 2005, c. 238, §1 (AMD); PL 2021, c. 548, §45 (REV).]

4. Expenses. The necessary expenses incurred by the chief executive officer in the operation of the retirement system shall be paid from the funds so allocated.
[PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

5. Reporting; simplification and enforcement. The chief executive officer may:

A. Review the retirement system's payroll and other reporting requirements and implement changes that simplify reporting methods or require less frequent filing of reports, provided that a change must not impair the completeness and accuracy of the records necessary for the retirement system's operations or compromise the integrity of the retirement system's funds or operations; and [PL 1993, c. 387, Pt. A, §6 (NEW).]

B. Recommend to the board for adoption under its rule-making authority a schedule of administrative penalties and interest intended to:

(1) Ensure compliance with payroll and other reporting requirements, including, but not limited to, the timely filing of reports and the accuracy of reports and of back-up records of the employer;

(2) Deter actions or omissions by the employer that impair the retirement system's ability to process accurately and in a timely manner membership and retirement applications, requests for refunds, group life insurance premium payments and claims and to conduct its other functions; and

(3) Deter actions or omissions by the employer that impede or delay the retirement system's efforts to resolve issues related to these matters. [PL 1993, c. 387, Pt. A, §6 (NEW).]

For purposes of this subsection, "employer" means a department or agency of State Government, a school administrative unit or a participating local district.
[PL 1993, c. 387, Pt. A, §6 (NEW); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 402, §§A66,A67 (AMD). PL 1993, c. 387, §§A5,6 (AMD). PL 1993, c. 410, §L23 (AMD). PL 1995, c. 368, §G5 (AMD). PL 2005, c. 238, §1 (AMD). PL 2007, c. 249, §11 (AMD). PL 2007, c. 491, §78 (AMD). PL 2021, c. 548, §45 (REV). RR 2023, c. 2, Pt. B, §95 (COR).

§17105-A. Adverse decisions of the retirement system

Prior to any adverse decision rendered by retirement system staff with respect to the recoupment, suspension or termination of benefits, or assessment of penalties or interest, the affected member or retiree is entitled to an informal hearing to which the member or retiree may bring legal counsel. The retirement system shall issue a written decision; this decision is subject to the retirement system's review and appeal process pursuant to section 17451. [PL 2009, c. 322, §5 (NEW).]

SECTION HISTORY

PL 2009, c. 322, §5 (NEW).

§17106. Medical board

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 409, §§1,2,12 (AMD). PL 1995, c. 643, §4 (AMD). PL 2007, c. 491, §79 (AMD). PL 2009, c. 322, §6 (AMD). PL 2017, c. 88, §§14-16 (AMD). PL 2021, c. 277, §15 (RP). PL 2021, c. 277, §45 (AFF).

§17106-A. Use of hearing officers

The board shall contract with qualified attorneys to act as hearing officers to implement the provisions of this chapter. Hearing officers are subject to the provisions of this section. Hearing officers are not employees of the board but independent contractors who serve as neutral and independent decision makers. [PL 2021, c. 277, §16 (AMD); PL 2021, c. 277, §45 (AFF).]

1. Independent decision makers. All hearing officers are independent decision makers and are authorized to make recommended final decisions in regard to matters that come before them, consistent with applicable statutes and rules. A decision of the hearing officer must be based upon the record as a whole. The board shall accept the recommended decision of the hearing officer unless the recommended decision is not supported by the record as a whole, the retirement system is advised by the Attorney General that the hearing officer has made an error of law or the decision exceeds the authority or jurisdiction conferred upon the hearing officer. A decision of the board upon a recommended decision of the hearing officer constitutes final agency action. The board shall retain its decision-making authority in all retirement system policy areas.
[PL 2009, c. 322, §7 (NEW).]

2. No direct or indirect influence. A party to the appeal, including the appellant, the board, the chief executive officer or the staff of the board may not exert direct or indirect influence on a hearing officer with regard to decisions of the hearing officer or the decision-making process.
[PL 2009, c. 322, §7 (NEW); PL 2021, c. 548, §45 (REV).]

3. Decision-making process. In the course of the decision-making process, hearing officers may accept, reject or determine the amount of weight to be given any information offered into evidence, including, but not limited to, medical evidence submitted by any of the parties to the appeal.
[PL 2009, c. 322, §7 (NEW).]

4. Discussion of issues before the hearing officers. All parties to an appeal, including the appellant, the board, the chief executive officer and the retirement system staff are prohibited from ex parte communication with the hearing officer. All parties, including the appellant, the board, the chief executive officer and the retirement system staff are prohibited from initiating or engaging in any

discussion with a hearing officer regarding the substance of any pending case without first making all parties aware of the proposed contact and without also giving all parties the opportunity to participate in any communication.
[PL 2009, c. 322, §7 (NEW); PL 2021, c. 548, §45 (REV).]

5. Investigation. The joint standing committee of the Legislature having jurisdiction over 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 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.
[PL 2017, c. 88, §17 (AMD).]

6. Engagement and termination. The board shall contract with only qualified hearing officers. A contract with 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 chief executive officer. 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 public employee retirement matters pursuant to subsection 5.
[PL 2021, c. 277, §17 (AMD); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 2009, c. 322, §7 (NEW). PL 2017, c. 88, §§17, 18 (AMD). PL 2021, c. 277, §§16, 17 (AMD). PL 2021, c. 277, §45 (AFF). PL 2021, c. 548, §45 (REV).

§17106-B. Disability retirement; medical review

1. Disability retirement forms; assessment. The chief executive officer shall develop and make easily accessible to health care providers in this State a disability form that allows a health care provider to provide an assessment of a member's ability to work after taking into account the member's mental or physical disability under the standards of this Part. References in this section to "disability form" refer to the form developed by the chief executive officer. A member seeking disability retirement shall cooperate with the chief executive officer in obtaining the member's medical records and may obtain an assessment from the health care provider of the member's ability to work after taking into account the member's mental or physical disability, and, if the health care provider finds that the member is disabled under the standards of this Part, the health care provider, at the request of the member, may file with the chief executive officer a disability form signed by the health care provider. The health care provider shall also provide a copy of the form to the member. The chief executive officer may find that a member has a mental or physical disability and is eligible for disability retirement based on the information provided in the form and medical records. The chief executive officer may seek, receive and consider recommendations and opinions from the medical review service provider in making this determination.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

2. Medical review. If the chief executive officer is unable to determine whether a member is eligible for disability retirement based on the information provided under subsection 1, the chief executive officer shall direct the member to have an independent medical examination by an independent health care provider. The member may waive the independent medical examination, in which case the chief executive officer may determine that the member is not eligible for disability retirement. The member may appeal this determination under subsection 3.

A. The retirement system shall pay all fees of the independent health care provider. The independent health care provider may not be a state employee and may not have any association

with the retirement system other than providing independent medical examinations or medical consultations and receiving payment for these services and, unless the member consents in writing, may not have previously examined or treated the member with respect to the member's mental or physical disability. [PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

B. The member may have a representative present at the independent medical examination, who may be a union representative, an attorney, a health care provider or any individual of the member's choice. The retirement system shall reimburse the member's representative as follows:

(1) If the representative is a health care provider, the retirement system shall pay that health care provider a standard per diem rate established by the board and a reasonable mileage reimbursement; and

(2) Any other representative of the member may be paid a reasonable mileage reimbursement only. [PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

3. Disability determination; appeal. After an independent medical review under subsection 2, the chief executive officer or the chief executive officer's designee shall make a determination of eligibility for disability retirement based upon the totality of the evidence and in accordance with subsection 4. The chief executive officer or the chief executive officer's designee may obtain recommendations or opinions from the medical review service provider to assist in this determination. A determination by the chief executive officer or the chief executive officer's designee that the member is not disabled may be appealed by the member to a hearing officer, who shall hear the appeal in accordance with section 17106-A. The board shall by rule provide for procedures for the member to participate in selection of the hearing officer who will hear the member's appeal. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

4. Medical evidence. When reviewing medical evidence in making determinations of disability, the board, chief executive officer and hearing officers shall primarily consider medical opinions in the record and whether the opinions are supported by sound medical evidence and are consistent with other medical evidence in the record.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF); PL 2021, c. 548, §45 (REV).]

5. Attorney's fees. If a member has retained services of an attorney to represent the member before a hearing officer or in a court proceeding on appeal of a board decision, the fee arrangement has been approved by the hearing officer or the court and the attorney obtains a favorable result for the member, the attorney's fees must be paid by the retirement system, up to a maximum of $12,000. The fee arrangement may be a contingency fee, in which case the payment by the retirement system must be applied toward the satisfaction of the contingency fee.
[PL 2021, c. 277, §18 (NEW); PL 2021, c. 277, §45 (AFF).]

SECTION HISTORY

PL 2021, c. 277, §18 (NEW). PL 2021, c. 277, §45 (AFF). PL 2021, c. 548, §45 (REV).

§17107. Actuary

1. Designation. The board shall designate an actuary who shall be the technical advisor to the board on matters regarding the operation of the funds created by this Part.

A. If the designated actuary is an individual, the individual must be a Fellow of the Society of Actuaries. [RR 2023, c. 2, Pt. B, §96 (COR).]

B. If the designated actuary is an organization of actuaries, the organization shall designate one of its members, who must be a Fellow of the Society of Actuaries, to perform the functions required of the actuary under this Part. [PL 1985, c. 801, §§5, 7 (NEW).]

[RR 2023, c. 2, Pt. B, §96 (COR).]

2. Duties. In addition to other duties set out in this Part, the actuary shall have the following duties.

A. The actuary shall perform whatever duties are required in connection with being the technical advisor to the board on matters regarding the operation of the funds created by this Part. [PL 1985, c. 801, §§5, 7 (NEW).]

B. The actuary shall certify the amounts of the benefits payable under this Part, except for benefits payable under chapter 423, subchapter VI and chapter 425, subchapter VI. [PL 1985, c. 801, §§5, 7 (NEW).]

C. The actuary shall make annual valuations of the assets and liabilities of each of the programs of the retirement system on the basis of actuarial assumptions adopted by the board. [PL 2007, c. 491, §80 (AMD).]

D. The actuary shall furnish a written report to the board.

(1) The report shall include information on each annual valuation, as required under paragraph C.

(2) The report shall include an analysis of the year's operations and all results shall be separated between those applicable to benefits payable by employer contributions and those applicable to benefits payable by employee contributions, where properly determinable. [PL 1985, c. 801, §§5, 7 (NEW).]

E. The actuary shall make whatever investigations the actuary considers necessary of the experience of each of the programs of the retirement system with respect to the factors that affect the cost of the benefits provided by those programs.

(1) The purpose of the investigations is to determine the actuarial assumptions to be recommended to the board for adoption in connection with actuarial determinations required under this Part.

(2-A) These investigations must be made whenever the board, on recommendation of the actuary, determines an investigation to be necessary to the actuarial soundness or prudent administration of the program or programs to which the investigation is related. The determination must take into account program demographics and changes in program demographics, employment patterns and projections, relevant economic measures and expectations and other factors that the board or actuary considers significant. With respect to the retirement system program for state employees and teachers, if 6 fiscal years have elapsed without an investigation being conducted, the board must either conduct an investigation within the next fiscal year or must record in the official minutes of a meeting of the board, in each fiscal year until the year in which an investigation is conducted, its decision not to do so and the reason or reasons for its decision. [PL 2025, c. 390, Pt. A, §15 (AMD).]

F. [PL 2025, c. 221, §17 (RP).]

[PL 2025, c. 221, §17 (AMD); PL 2025, c. 390, Pt. A, §15 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 402, §§A68,A69 (AMD). PL 2001, c. 181, §5 (AMD). PL 2007, c. 491, §§80-82 (AMD). PL 2023, c. 412, Pt. D, §3 (REV). RR 2023, c. 2, Pt. B, §96 (COR). PL 2025, c. 221, §17 (AMD). PL 2025, c. 390, Pt. A, §15 (AMD).

§17108. Investment counsel

1. Contract. The board may contract with one or more fiduciaries or registered investment advisors. All contracts with fiduciaries or registered investment advisors must have the approval of a majority of the board.

[PL 1993, c. 410, Pt. L, §24 (AMD).]

2. Duties. The fiduciary or registered investment advisor has the following duties.

A. The fiduciary or registered investment advisor shall invest and reinvest the funds of the retirement system in accordance with the standards defined in Title 18-B, sections 802 to 807 and chapter 9. The investment and reinvestment are subject to periodic review by the board. [PL 2003, c. 618, Pt. B, §1 (AMD); PL 2003, c. 618, Pt. B, §20 (AFF).]

B. The fiduciary or registered investment advisor shall inform the board immediately of any changes in its investment philosophy. [PL 1985, c. 801, §§5, 7 (NEW).]

C. The fiduciary or registered investment advisor shall submit reports of the investments and any changes upon request from the board. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 2003, c. 618, Pt. A, §1 (AMD); PL 2003, c. 618, Pt. A, §20 (AFF).]

3. Expenses. The expenses incurred in employing one or more fiduciaries or investment advisors shall be charged to earnings received from investments of the retirement system.

[PL 1985, c. 801, §§5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1993, c. 410, §L24 (AMD). PL 2003, c. 618, §B1 (AMD). PL 2003, c. 618, §B20 (AFF).

§17109. Other counsel and assistance

1. Contract. The board may employ or contract for the services of persons or associations, other than those contracted with under section 17108, for investment counsel or advice and for other professional or other assistance, as may be necessary or appropriate to aid in carrying out the board's functions.

[PL 1985, c. 801, §§ 5, 7 (NEW).]

2. Expenses. The expenses incurred in employing or contracting with persons or associations under subsection 1 shall be charged to earnings received from investments of the retirement system.

[PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17110. Custodial care of securities

1. Contract or agreement. The board may enter into a contract or agreement with any national bank, trust company or safe deposit company for custodial services for the securities belonging to any fund of the retirement system and other related services.

A. A contracting bank performing services under a contract or agreement pursuant to this section shall comply with Title 9-B, section 473. [PL 1997, c. 398, Pt. L, §3 (AMD).]

B. The contracting bank shall give assurance of proper safeguards, which are usual to contracts such as these. [PL 1985, c. 801, §§5, 7 (NEW).]

C. The contracting bank shall furnish insurance protection satisfactory to both parties. [PL 1985, c. 801, §§5, 7 (NEW).]

D. All contracts or agreements entered into between the board and the custodian bank, trust company or safe deposit company selected by the board must have the approval of a majority of the board. [PL 1993, c. 410, Pt. L, §25 (AMD).]

[PL 1997, c. 398, Pt. L, §3 (AMD).]

2. Payment for services. The board may arrange for the payment of services rendered under this section:

A. By cash payments to be charged pro rata to the income of the several funds of the retirement system; [PL 1985, c. 801, §§5, 7 (NEW).]

B. By an agreement for a compensating deposit balance with the bank in question in lieu of the cash payment under paragraph A; or [PL 1985, c. 801, §§5, 7 (NEW).]

C. By some combination of the methods of payment in paragraphs A and B. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1985, c. 801, §§5, 7 (NEW).]

3. Withdrawal or deposit. The chief executive officer, or another person or persons designated to the custodian by the board, may withdraw securities from or deposit securities with the custodian as circumstances may require, except that all withdrawals or delivery instructions must bear the written approval of 2 other persons duly authorized by a resolution of the board.

[PL 1985, c. 801, §§5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1993, c. 410, §L25 (AMD). PL 1997, c. 398, §L3 (AMD). PL 2021, c. 548, §45 (REV).

SUBCHAPTER 4

FINANCING

ARTICLE 1

GENERAL PROVISIONS

§17151. Legislative findings and intent

1. Findings. The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service.

A. Part of that debt is repaid by the benefits provided to retirees through the State Employee and Teacher Retirement Program. [PL 2007, c. 491, §83 (AMD).]

B. Retirees, who depend heavily on these benefits, and current employees, who will one day retire and receive benefits, are concerned about the financial viability of the retirement program. [PL 2007, c. 491, §83 (AMD).]

[PL 2007, c. 491, §83 (AMD).]

2. Intent. It is the intent of the Legislature that there must be appropriated and transferred annually to the retirement system the funds necessary to meet the State Employee and Teacher Retirement Program's long-term and short-term financial obligations based on the actuarial assumptions established by the board upon the advice of the actuary. The amount of the unfunded liability attributable to state employees and teachers as of July 1, 2004, as certified by the board or as that amount may be revised in accordance with the terms of the certification, must be retired in no more than 23 years from June 30, 2005. For fiscal year 2004-05, the Legislature must appropriate or allocate and there must be transferred to the retirement system funds necessary to institute, as of July 1, 2005, the 23-year amortization schedule. For each fiscal year starting with the fiscal year that begins July 1, 2005, the Legislature shall appropriate or allocate and transfer to the retirement system the funds necessary to meet the 23-year requirement set forth in this subsection, unless the Legislature establishes a different

amortization period. Funds that have been appropriated must be considered assets of the retirement system.

A. The goal of the actuarial assumptions is to achieve a fully funded retirement program. [PL 2007, c. 491, §83 (AMD).]

B. The State Employee and Teacher Retirement Program's unfunded liability for persons formerly subject to the Maine Revised Statutes of 1944, chapter 37, sections 212 to 220 must be repaid to the system from annual appropriations over the funding period of the program. [PL 2007, c. 491, §83 (AMD).]

C. This section may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 2007, c. 491, §83 (AMD).]

3. Intent.

[PL 2005, c. 12, Pt. R, §2 (RP).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1991, c. 9, §E7 (AMD). PL 1991, c. 528, §P1 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §P1 (AMD). PL 1997, c. 643, §R1 (AMD). PL 1999, c. 731, §XX1 (AMD). PL 2003, c. 20, §§NN1,2 (AMD). PL 2005, c. 12, §§R1,2 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §83 (AMD).

§17152. Funds

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: [PL 2017, c. 88, §19 (AMD).]

1. Members' Contribution Fund. The Members' Contribution Fund; and
[RR 2015, c. 2, §3 (COR).]

2. Retirement Allowance Fund. The Retirement Allowance Fund.
[PL 2015, c. 385, §6 (AMD).]

3. Expense Fund.
[PL 2015, c. 385, §7 (RP).]

4. Survivors' Benefit Fund.
[PL 2007, c. 249, §12 (RP).]

5. State Retiree Health Insurance Fund.
[PL 2007, c. 249, §13 (RP).]

6. State Retired Teachers' Health Insurance Fund.
[PL 2007, c. 249, §14 (RP).]

7. Disability Retirement Benefit Fund.
[PL 2007, c. 249, §15 (RP).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 409, §§3,12 (AMD). PL 1995, c. 368, §G6 (AMD). PL 2007, c. 249, §§12-15 (AMD). RR 2013, c. 2, §6 (COR). PL 2013, c. 602, Pt. A, §1 (AMD). RR 2015, c. 2, §3 (COR). PL 2015, c. 385, §§6, 7 (AMD). PL 2017, c. 88, §19 (AMD).

§17153. Board of trustees

1. Actuarially sound basis.
[PL 1987, c. 193, §1 (RP).]

1-A. Actuarially sound basis. The board shall calculate the funds necessary to maintain all programs of the retirement system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and shall transmit those calculations to the State Budget Officer as required by chapter 149.

A. For benefits applicable to state employees, teachers or participating local district employees that are established through collective bargaining, the board shall apply the funding methods and assumptions adopted by the board pursuant to this subsection. [PL 1987, c. 193, §2 (NEW).]

B. The Legislature shall appropriate and transfer annually those funds the board determines to be necessary under this subsection to maintain the programs of the retirement system on an actuarially sound basis, except that for fiscal year 1991-92 the annual appropriation must be $73,500,000 less than the amount that would otherwise be applied toward the repayment of the unfunded liability of the State Employee and Teacher Retirement Program. [PL 2007, c. 491, §84 (AMD).]

C. This subsection may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system. [PL 1987, c. 193, §2 (NEW).]
[PL 2007, c. 491, §84 (AMD).]

2. Trustee of funds. The members of the board shall be the trustees of the several funds created by this Part.
[PL 1985, c. 801, §§5, 7 (NEW).]

3. Investment of funds. The board may cause the funds created by this Part to be invested and reinvested in accordance with the standards defined in Title 18-B, sections 802 to 807 and chapter 9, subject to periodic approval of the investment program by the board.
[PL 2003, c. 618, Pt. B, §2 (AMD); PL 2003, c. 618, Pt. B, §20 (AFF).]

4. Prohibitions. In addition to the limitations of section 18 and except as otherwise provided, no trustee and no employee of the board of trustees may:

A. Have any direct interest in the gains or profits of any investment made by the board; [PL 1985, c. 801, §§5, 7 (NEW).]

B. Directly or indirectly, for that trustee or employee or as an agent, in any manner, use the gains or profits of any investment made by the board except to make whatever current and necessary payments are authorized by the board; or [RR 2023, c. 2, Pt. B, §97 (COR).]

C. Become an endorser, surety or obligor for money loaned to or borrowed from the board. [PL 1985, c. 801, §§5, 7 (NEW).]
[RR 2023, c. 2, Pt. B, §97 (COR).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 193, §§1,2 (AMD). PL 1991, c. 528, §P2 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §P2 (AMD). PL 2003, c. 618, §B2 (AMD). PL 2003, c. 618, §B20 (AFF). PL 2007, c. 491, §84 (AMD). RR 2023, c. 2, Pt. B, §97 (COR).

§17154. Administration of funds

1. Custodian.
[PL 2007, c. 249, §16 (RP).]

2. Budget estimates. The board shall submit budget estimates of contributions required to fund benefits for state employees and teachers to the State Budget Officer in accordance with section 1665, except that after July 1, 1995, the board may not submit estimates of contributions required to pay premiums for health insurance for retired state employees and retired teachers.
[PL 1995, c. 368, Pt. G, §7 (AMD).]

3. Combination or elimination of funds. On the advice of the actuary of the retirement system, the board may combine or eliminate all or any parts of the funds set forth in this subchapter, except that any combination or elimination may not impair the actuarial valuations.
[PL 1985, c. 801, §§5, 7 (NEW).]

4. Payment upon vouchers.
[PL 2007, c. 249, §17 (RP).]

5. Payment of employer charges for state employees. For state employees, on every payroll from which retirement contributions are deducted or picked up, the State Controller shall cause a charge to be made to each department of the State in order to pay employer costs.

A. The charge shall be a percentage, to be predetermined by the actuary and approved by the board, of the total earnable compensation of members appearing on the payroll of each department. [PL 1987, c. 739, §§5, 48 (AMD).]

B. The amount or amounts shall be credited to the appropriate funds as listed in this subchapter. [PL 1985, c. 801, §§5, 7 (NEW).]
[PL 1987, c. 739, §§5, 48 (AMD).]

6. Payment of employer charges for teachers. For teachers, percentage rates to be predetermined by the actuary and approved by the board must be applied to the total earnable compensation of members covering the most recent school year preceding the preparation of the biennial budget.

A. The resulting amount must be appropriated and credited to the appropriate funds. [PL 2007, c. 240, Pt. U, §6 (AMD).]

B. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers whose funding is provided from federal grants or through federal reimbursement must be paid by local school systems from those federal funds. [PL 2007, c. 491, §85 (AMD).]

C. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to those teachers who are permitted to continue to accrue service credit while on a one-year leave of absence and participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State must be paid from funds provided by the college employing the teacher during that year. [PL 2007, c. 491, §85 (AMD).]

D. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to a teacher who is permitted to continue to accrue service credit while on a leave of absence and serving as President of the Maine Education Association must be paid from funds provided by the Maine Teachers Association. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [PL 2007, c. 491, §85 (AMD).]

E. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement program applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school

systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606-B. [PL 2007, c. 491, §85 (AMD).]

F. Notwithstanding this section, effective September 1, 1993, the employer retirement costs and administrative operating expenses related to the retirement program, less the unfunded liability, that are applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [PL 2007, c. 491, §85 (AMD).]

G. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs that are applicable to the normal cost of retirement for a teacher must be included in the total allocation in accordance with Title 20-A, chapter 606-B for the school administrative unit that employs the teacher. [PL 2013, c. 368, Pt. C, §1 (NEW).]

H. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by school administrative units, as defined in Title 20-A, section 1, subsection 26, whose funding is provided from local and state funds must be paid by local school administrative units. [PL 2013, c. 368, Pt. C, §1 (NEW).]

I. Notwithstanding this section, beginning in fiscal year 2013-14, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by private schools, as defined in Title 20-A, section 1, subsection 22, must be paid by the private school. [PL 2013, c. 368, Pt. C, §1 (NEW).]

J. Notwithstanding this section, the employer retirement costs and administrative operating expenses related to the retirement programs applicable to those teachers employed by an education service center, as defined in Title 20-A, section 3801, subsection 1, paragraph B, whose funding is provided from local and state funds must be paid by that education service center. [PL 2021, c. 548, §18 (AMD).]

[PL 2021, c. 548, §18 (AMD).]

7. Payment of employer charges for participating local district employees. Employer charges for participating local district employees are governed by sections 18301 to 18303.
[PL 1985, c. 801, §§5, 7 (NEW).]

8. Transfers among funds. When considered necessary by the chief executive officer for the efficient administration of the retirement system, the chief executive officer may make transfers among the various funds of the system set forth in this subchapter in accordance with accepted accounting and actuarial principles.
[RR 2023, c. 2, Pt. B, §98 (COR).]

9. Improper application of statutes. Notwithstanding the other provisions of this section, additional actuarial and administrative costs resulting from omissions or misrepresentations by an employer as to a member's earnings, service or service credits or from improper application of retirement system statutes or rules regarding earnings, service or service credits must be charged to and paid by the employer that omitted information, provided misinformation or improperly applied the statutes or rules, unless the omission, misrepresentation or improper application results from erroneous information provided by the retirement system. The employer is liable for amounts not recovered from the retiree and for costs incurred by the retirement system in resolving problems caused by the employer's actions and in addition may be subject to administrative fees, penalties and interest under section 17105, subsection 5. For purposes of this subsection, "employer" means any department of State Government, school administrative unit or participating local district.

[PL 1993, c. 595, §5 (AMD).]

10. Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives. Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive pursuant to section 17159. For purposes of this subsection, "early retirement" has the same meaning as in section 17159, subsection 1.
[PL 1995, c. 541, §2 (RPR).]

11. Payment of actuarial cost of excess increase in earnable compensation. Notwithstanding the other provisions of this section, the employer may pay to the retirement system the cost of the actuarial liability resulting from any increase in earnable compensation for any year within the 3-year period used in determining average final compensation that exceeds the prior year's earnable compensation by more than 5% or, if it would result in a lesser additional actuarial liability, any increase in earnable compensation over a total increase of 10% during the 3-year period. The retirement system shall calculate the cost of the additional actuarial liability for each member when calculating the retirement benefit for that member at retirement. The cost must be paid in accordance with this subsection.

A. For state employees, the State Controller shall establish an account from which payments required by section 17001, subsection 13, paragraph C must be made. At the time any collective bargaining agreement is funded, funds must be appropriated to this account to pay for the anticipated cost of any increases over the limits established in section 17001, subsection 13, paragraph C that may result from the provisions of that agreement. When the additional actuarial liability is incurred with respect to a retiring state employee, the retirement system shall bill the State Controller for the cost and the State Controller shall transfer to the retirement system the amount billed. [PL 1993, c. 410, Pt. L, §27 (NEW).]

B. For teachers, the cost must be paid by the school administrative unit that provides an increase over the limits established in section 17001, subsection 13, paragraph C. If the school administrative unit has agreed to pay the cost of the additional actuarial liability, the retirement system shall bill the school administrative unit for the cost, which must be paid by the school administrative unit within 60 days of its receipt of the bill. If the retirement system does not receive payment within 60 days, the system shall notify the State Controller, who shall immediately reduce the school administrative unit's general purpose aid by the amount billed plus interest applied as of the 60th day and transfer the total amount of the reduction to the retirement system. If the general purpose aid payable at the time to the school administrative unit is insufficient to pay the entire amount of the reduction, general purpose aid payable to the school administrative unit in the future must be reduced until the entire amount of the reduction, plus any additional accrued interest, has been transferred to the retirement system. [PL 1993, c. 410, Pt. L, §27 (NEW).]

C. The retirement system shall provide information with the bill to the employer stating the basis on which the cost billed was calculated and showing the calculations. If the State Controller or school administrative unit questions the cost, its basis or the calculations, the retirement system shall promptly respond and, if necessary, meet with the State Controller or school administrative unit to resolve any dispute. [PL 1993, c. 410, Pt. L, §27 (NEW).]

This subsection does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of the school administrative unit in effect on July 1, 1993. In

addition, this subsection does not apply to increases granted to state employees during fiscal years 1993-94 and 1994-95.
[PL 1993, c. 580, §2 (AMD); PL 1993, c. 580, §3 (AFF).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 256, §5 (AMD). PL 1987, c. 739, §§5,48 (AMD). PL 1989, c. 491, §2 (AMD). PL 1991, c. 360, §3 (AMD). PL 1991, c. 857, §1 (AMD). P&SL 1993, c. 67, §1 (AMD). PL 1993, c. 387, §A7 (AMD). PL 1993, c. 410, §§L26,27 (AMD). PL 1993, c. 482, §3 (AMD). PL 1993, c. 580, §2 (AMD). PL 1993, c. 580, §3 (AFF). PL 1993, c. 595, §5 (AMD). PL 1995, c. 368, §G7 (AMD). PL 1995, c. 462, §A14 (AMD). PL 1995, c. 471, §§2,3 (AMD). PL 1995, c. 541, §2 (AMD). PL 2003, c. 504, §B1 (AMD). PL 2005, c. 2, §D1 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF). PL 2007, c. 240, Pt. U, §6 (AMD). PL 2007, c. 249, §§16, 17 (AMD). PL 2007, c. 491, §85 (AMD). PL 2013, c. 368, Pt. C, §1 (AMD). PL 2019, c. 460, §2 (AMD). PL 2021, c. 548, §18 (AMD). PL 2021, c. 548, §45 (REV). RR 2023, c. 2, Pt. B, §98 (COR).

§17155. Special resolves

If and when any special resolve or other legislation described in section 17103, subsection 10, is enacted by the Legislature, the entire actuarial costs of benefits granted shall be fully funded by act of the same Legislature which enacts the special resolve or other legislation. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17156. Rate of interest

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18)

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded periodically determined by the board to be equitable, both to members and to the taxpayers of the State. [PL 1985, c. 95, §1 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 95, §1 (AMD). PL 1991, c. 619, §5 (AMD). PL 1991, c. 619, §18 (AFF).

§17156. Rate of interest

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18)

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded periodically determined by the board to be equitable, both to members and to the taxpayers of the State, provided that the interest credited to a member with less than 10 years of creditable service on contributions related to compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must at least equal the yield of a 10-year United States treasury bond on the last business day of the previous calendar year reduced by administrative expenses. [PL 1991, c. 619, §5 (AMD); PL 1991, c. 619, §18 (AFF).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 95, §1 (AMD). PL 1991, c. 619, §5 (AMD). PL 1991, c. 619, §18 (AFF).

§17157. Interest and dividend credits

All interest and dividends earned on the funds of the retirement system shall be credited to the Retirement Allowance Fund. [PL 1985, c. 801, §§ 5, 7 (NEW).]

1. Transfer to Members' Contribution Fund. The board shall periodically allow regular interest on the individual accounts of members in the Members' Contribution Fund and shall transfer those amounts from the Retirement Allowance Fund to the Members' Contribution Fund.
[PL 1989, c. 95, §2 (AMD).]

2. Transfer to Survivors' Benefit Fund.
[PL 2007, c. 249, §18 (RP).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 95, §2 (AMD). PL 2007, c. 249, §18 (AMD).

§17158. Full funding

Upon full funding of the accrued unfunded reserves of any program of the Maine Public Employees Retirement System, the board of trustees may reduce employer contributions to the level required to maintain proper funding of earned benefits. The board of trustees may also seek legislative action to reduce employee contributions or pick-up contributions established by this Part. [PL 2007, c. 491, §86 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 739, §§6,48 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §86 (AMD).

§17159. Early retirement incentive costs

When an employee retires prior to normal retirement age and receives from the employer any significant monetary or nonmonetary payment or award in connection with the employee's retirement, the employer must, prior to the effective date of the employee's retirement, demonstrate that the payment or award is not a retirement incentive or pay the additional actuarial and reasonable administrative costs of the employee's early retirement. [PL 1995, c. 541, §3 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section 17851-A, subsection 4, section 17852, subsection 3 or 3-A or subsection 10, paragraph C or C-1; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3. [PL 2007, c. 249, §19 (AMD).]

B. "Employer" means, in the case of a member who is a state employee, the department of State Government by which the member was last employed prior to retirement; in the case of a member who is a teacher, the local school administrative unit by which the member was last employed prior to retirement; and in the case of a member who is an employee of a participating local district, the district by which the member was last employed prior to retirement. [PL 1995, c. 541, §3 (NEW).]
[PL 2007, c. 249, §19 (AMD).]

2. Criteria for identifying an early retirement incentive. A payment or award in connection with retirement is an incentive for early retirement for which the employer offering the incentive is responsible for the additional costs pursuant to section 17154, subsection 10 if all the criteria established in this subsection are met:

A. The payment or award is intended to induce the member's early retirement; [PL 1995, c. 541, §3 (NEW).]

B. The payment or award is a one-time, time-limited or occasional offer outside the employer's regular benefit program; [PL 1995, c. 541, §3 (NEW).]

C. The payment or award is not part of a longevity-based employee retention program; and [PL 1995, c. 541, §3 (NEW).]

D. The payment or award is not made pursuant to a collective bargaining agreement for the initial term of that agreement if that agreement is executed or ratified in its final form by final vote of at least one of the parties to the agreement prior to July 1, 1993. [PL 1995, c. 541, §3 (NEW).]

[PL 1995, c. 541, §3 (NEW).]

3. Employer provides information. If a member retires prior to normal retirement age and receives a significant monetary or nonmonetary payment or award in connection with the retirement, prior to the effective date of the member's retirement or, if a payment or award that was not known or anticipated prior to retirement is given after retirement, within 7 business days of the date upon which the payment or award is given, the employer must provide the following information to the retirement system:

A. Documents demonstrating that any of the criteria established in subsection 2 is not met. By way of example and not limitation, such documents include collective bargaining agreements, whether principal agreements, side agreements or memoranda of agreement or understanding; records of official actions by the employer; relevant rules or policies of the employer; records of prior or contemporaneous relevant retirements of employees of the employer; notices, memoranda or other communications from the employer to employees regarding retirement; and correspondence between the employer and an employee, employees or employee representatives concerning retirement; and [PL 1995, c. 541, §3 (NEW).]

B. Certification on a form provided by the retirement system and signed by the employer, or the responsible officer of the employer on the employer's behalf, that the payment or award does not meet the criteria established in subsection 2 and is not an action or practice causing or encouraging early retirement. [PL 1995, c. 541, §3 (NEW).]

[PL 1995, c. 541, §3 (NEW).]

4. Early Retirement Incentives Review Panel.

[PL 1999, c. 668, §55 (RP).]

5. Panel determinations.

[PL 1999, c. 668, §56 (RP).]

6. Panel decision.

[PL 1999, c. 668, §56 (RP).]

7. Reconsideration; final decision.

[PL 1999, c. 668, §56 (RP).]

8. Employer payment for costs resulting from early retirement incentives. Employer payment for costs resulting from early retirement incentives are governed by this section pursuant to section 17154, subsection 10.

A. The additional actuarial costs that result from the early retirement of a member who has received an early retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) The retirement system shall determine the additional actuarial costs for which the employer is liable in individual situations as follows:

(a) First, the annual retirement benefit payable to the member upon the member's early retirement date must be calculated in accordance with the governing provisions of the retirement system statutes and rules;

(b) Second, the annual retirement benefit that would be payable to the member on a fully actuarially reduced basis must be calculated in accordance with the actuarial equivalent early retirement reduction factors prescribed by the retirement system's consulting actuary and approved by the board;

(c) Third, the retirement benefit calculated in division (b) must be subtracted from the retirement benefit calculated in division (a); and

(d) Fourth, a present-value factor must be applied to the amount determined in division (c) to convert the annual benefit amount to a lump sum present-value dollar amount. This amount represents the additional actuarial cost resulting from the early retirement of a member who has been offered a retirement incentive.

(2) The retirement system shall bill the employer of retiring members who will receive or have received early retirement incentives for the additional actuarial costs as determined by the retirement system in subparagraph (1). The bill must be accompanied by a statement of the basis of the costs identified in the bill and the supporting calculations.

(3) All determinations of additional actuarial costs are subject to recalculation upon the actual retirement of the member and upon any subsequent recalculation of the member's early retirement benefit due to misreporting of member-specific information, error or any direction by the board to recalculate a member's benefit. Any resulting change in additional actuarial costs must be paid or refunded, as appropriate, to the employer. Any administrative costs for recalculation of additional actuarial costs that is caused by actions of the employer must be paid by the employer. [PL 1995, c. 541, §3 (NEW).]

B. The reasonable administrative costs that result from the early retirement of a member who has received a retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) Subject to review and approval by the board, the chief executive officer shall establish and may revise from time to time an administrative processing fee to determine the member-specific additional actuarial costs relating to an early retirement incentive for which the employer is liable. The fee must be based on the time required for making such determinations, must be reasonable and may not be set at a level that requires the retirement system's members and employers as a whole to subsidize the cost of a determination. The fee must be paid before the retirement system determines the member-specific additional actuarial costs.

(2) The employer must pay any additional actual administrative costs for member-specific information at an hourly administrative cost rate for the retirement system plus the retirement system's actual costs related to actuarial and legal services. Subject to review and approval by the board, the chief executive officer shall establish and may from time to time revise the administrative cost rate.

(3) The employer must be billed for any actual administrative costs beyond the processing fee. If the member is already receiving a retirement benefit or preliminary benefit when the employer is billed for administrative costs, the employer must also be charged interest as a cost and must pay interest retroactive to the member's effective date of retirement. The bill must be accompanied by a statement of the basis of the administrative costs. [PL 1995, c. 541, §3 (NEW); PL 2021, c. 548, §45 (REV).]

C. For early retirement incentives granted between July 1, 1993 and March 15, 1996, the employer must pay the amount calculated under paragraphs A and B plus interest due to the retirement system in accordance with a payment schedule not to exceed 10 years. For early retirement incentives granted after March 15, 1996, the employer must pay the amount calculated under paragraphs A and B to the retirement system within 30 days of receipt of the bill. [PL 1995, c. 541, §3 (NEW).]

D. If the employer or the member disputes the determination that additional actuarial costs must be paid by the employer, the amount of the additional actuarial costs or the amount of actual administrative costs, an appeal may be brought pursuant to section 17451 and Chapter 702 of the board's rules. [PL 1995, c. 541, §3 (NEW).]

E. Interest must be charged by the retirement system and must be paid by the employer on all overdue amounts pertaining to the processing fee, additional actuarial costs and administrative costs. In addition, an employer who fails to pay is liable for penalties on a case-by-case basis as recommended by the chief executive officer and approved by the board and shall pay all of the retirement system's costs associated with collection of amounts overdue and enforcement of the provisions of this section. [PL 1995, c. 541, §3 (NEW); PL 2021, c. 548, §45 (REV).]

[PL 1995, c. 541, §3 (NEW); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 1995, c. 541, §3 (NEW). PL 1997, c. 651, §4 (AMD). PL 1999, c. 668, §§55,56 (AMD). PL 1999, c. 731, §CC2 (AMD). PL 2007, c. 249, §19 (AMD). PL 2021, c. 548, §45 (REV).

§17160. Minimum level of employer contribution

1. Portion of employer contribution. Beginning in fiscal year 2002-03 and continuing until the unfunded liabilities of the State Employee and Teacher Retirement Program attributable to state employees and teachers, as defined in the Constitution of Maine, Article IX, Section 18-B, are retired, within the term provided in Section 18-B or within any shorter term provided by statute, the portion of the employer contribution amount devoted to paying the unfunded liabilities of the program attributable to state employees and teachers may not be less than the amount paid for that purpose during the immediately preceding fiscal year.

A. In circumstances in which the unfunded liability amount to be paid in a given year would be less than the amount paid in the immediately preceding year, the Board of Trustees of the Maine Public Employees Retirement System shall request the system's actuary to recommend a methodology to adjust program funding in order to realize payment of the required amount. The methodology for adjustment must be actuarially sound in itself and may not jeopardize the actuarial soundness of the program or its funding. [PL 2007, c. 491, §87 (AMD).]

B. If the system's actuary determines pursuant to paragraph A that no methodology meeting the requirements of this subsection can be identified, then the requirement that the unfunded liability payment in a given year may not be less than the amount paid in the immediately preceding fiscal year applies only to the General Fund portion of the unfunded liability payment. A General Fund appropriation in the amount of the difference between the General Fund portions of the unfunded liability payment in the 2 years in question must be sought. [PL 2001, c. 707, §1 (NEW).]

[PL 2007, c. 491, §87 (AMD).]

SECTION HISTORY

PL 2001, c. 707, §1 (NEW). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §87 (AMD).

ARTICLE 2

MEMBERS' CONTRIBUTION FUND

§17201. Establishment

The Members' Contribution Fund is established and it shall contain accumulated contributions deducted from the compensation of members. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17202. Deduction adjustments

In order to facilitate the making of deductions, the board may modify the deduction required of any member by an amount that does not exceed 1/10 of 1% of the member's annual rate of earnable compensation. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17203. Payroll deduction

1. Certification and deduction. The board shall certify to the chief administrative officer of each department, school and participating local district and the chief administrative officer shall cause to be deducted from the compensation of each member on each payroll of the department, school or participating local district for each payroll period, the appropriate percentage of earnable compensation to be contributed.

A. Amounts deducted from the compensation of state employees must be credited to the State Employee and Teacher Retirement Program in the same manner and at the same time that employer charges are credited to that program as provided by section 17154, subsection 5. [PL 2007, c. 491, §88 (AMD).]

B. Amounts deducted from the compensation of teachers must be paid to the State Employee and Teacher Retirement Program by the chief administrative officer of each school administrative unit monthly in accordance with rules of the board. Delinquent payments due under this paragraph:

(1) May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the school administrative unit, not to exceed regular interest by 5 or more percentage points;

(2) May be recovered by action in a court of competent jurisdiction against the school administrative unit; or

(3) May, at the request of the retirement system, be deducted from any other money payable to that school administrative unit. [PL 2007, c. 491, §88 (AMD).]

C. Payment of members' contributions to the Participating Local District Retirement Program by participating local districts is governed by sections 18301 to 18303. [PL 2007, c. 491, §88 (AMD).]

[PL 2007, c. 491, §88 (AMD).]

2. Manner of deduction. The amounts deducted under subsection 1, when deducted, shall be:

A. Paid into the Members' Contribution Fund; and [PL 1985, c. 801, §§ 5, 7 (NEW).]

B. Credited to the individual account of the member from whose compensation the deduction was made. [PL 1985, c. 801, §§ 5, 7 (NEW).]

[PL 1985, c. 801, §§ 5, 7 (NEW).]

3. Member's consent. It is deemed that every member has consented to allow the chief administrative officer of the member's department, school or participating local district to make

deductions from the member's compensation or to make pick-up contributions to satisfy the member's required contribution to the applicable retirement program.
[PL 2007, c. 491, §89 (AMD).]

4. Discharge of claims. Payment of compensation to a member, minus the adjustment to compensation resulting from a deduction or employer pick-up contributions under this section, shall be a complete discharge of all claims and demands based on the services rendered by the member during the period covered by the payment, except for any claims or demands for the benefits provided under this Part.
[PL 1987, c. 739, §§7,48 (AMD).]

5. Reduction of minimum compensation. The deductions under this section shall be made notwithstanding that the minimum compensation provided for by law for any member is reduced by the deduction.
[PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 739, §§7,48 (AMD). PL 1989, c. 95, §3 (AMD). PL 1991, c. 185, §1 (AMD). PL 2007, c. 491, §§88, 89 (AMD).

§17204. Contributions on member's own account

A member in service may make contributions on the member's own account, in addition to the employee contributions required under this Part, to the Members' Contribution Fund, at a rate not in excess of 10% of earnable compensation for the purpose of increasing the amount of payment of the member's retirement allowance under any service retirement provision of this Part. [RR 2023, c. 2, Pt. B, §99 (COR).]

1. Rules. The board shall adopt rules governing this right of members to make additional contributions.
[PL 1985, c. 801, §§ 5, 7 (NEW).]

2. Exception to 10% rule. Any member in service on January 1, 1976, and ineligible to make contributions under sections 17754, 17763 and 18354 because of the amendments of the predecessors of those sections by Public Law 1975, chapter 622, may make whatever additional contributions, at a rate in excess of 10% of earnable compensation, as are necessary to provide an increased retirement allowance equal to any benefits to which the member would have been entitled under the predecessors of sections 17754, 17763 and 18354, as in effect immediately before January 1, 1976.
[PL 1985, c. 801, §§ 5, 7 (NEW).]

3. Limitation. This section shall not be applicable to any member who has not begun increased contributions under this section before January 1, 1990.
[PL 1989, c. 95, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 95, §4 (AMD). RR 2023, c. 2, Pt. B, §99 (COR).

§17205. Transfers of funds

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 256, §5A (RP).

§17206. Statement of account

The chief executive officer shall furnish to each member of the retirement programs of the retirement system, upon request, a statement showing the amount of accumulated contributions to the

member's credit in the member's individual account in the Members' Contribution Fund. [PL 2007, c. 491, §90 (AMD); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 491, §90 (AMD). PL 2021, c. 548, §45 (REV).

ARTICLE 3

RETIREMENT ALLOWANCE FUND

§17251. Establishment

The Retirement Allowance Fund is established in which must be accumulated all reserves required for the payment of benefits under this Part, other than reserves in the Members' Contribution Fund. [PL 2007, c. 249, §20 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 409, §§4,12 (AMD). PL 2007, c. 249, §20 (AMD).

§17252. Employer contribution

On account of each member, the State and each participating local district shall pay annually into the Retirement Allowance Fund an amount equal to a certain percentage of the annual earnable compensation of employees. [PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW).

§17253. Employer contribution rate

The percentage rate of the employer contribution, described in section 17252, to be known as the "employer contribution rate," is fixed on the basis of the assets and liabilities of the retirement programs of the Maine Public Employees Retirement System as shown by actuarial valuation. [PL 2007, c. 491, §91 (AMD).]

1. Computation. The employer contribution rate is determined as the percentage of the members' earnable compensation payable during the members' periods of membership required to provide the difference between the total liabilities for retirement allowances, survivors' benefits and disability retirement benefits not provided by the members' accumulated contributions and the amount of the assets in the Retirement Allowance Fund.
[PL 2007, c. 249, §21 (AMD).]

2. Manner of determination. The employer contribution rate shall be determined after each valuation based on actuarial assumptions adopted by the board and shall continue in force until a new valuation is made.
[PL 1985, c. 801, §§5, 7 (NEW).]

3. Components of unfunded liability contribution. The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section 1532.
[PL 2005, c. 2, Pt. A, §10 (AMD); PL 2005, c. 2, Pt. A, §14 (AFF).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 739, §§8,48 (AMD). PL 1995, c. 464, §15 (AMD). PL 2005, c. 2, §A10 (AMD). PL 2005, c. 2, §A14 (AFF). PL 2007, c. 249, §21 (AMD). PL 2007, c. 491, §91 (AMD).

§17254. Minimum state contribution

The aggregate payment by the State into the Retirement Allowance Fund for state employees and teachers must be at least sufficient, when combined with the amount in the Retirement Allowance Fund, to provide the benefits payable out of the fund and the administrative operating expenses of the Maine Public Employees Retirement System during the current year. [PL 2007, c. 58, §3 (REV); PL 2007, c. 240, Pt. U, §7 (AMD).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. U, §7 (AMD).

ARTICLE 4

EXPENSE FUND

§17301. Establishment

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2015, c. 385, §8 (RP).

§17302. Administration of fund

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2015, c. 385, §8 (RP).

§17403. Administration of fund

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1995, c. 368, §G10 (RP).

ARTICLE 5

SURVIVORS' BENEFIT FUND

§17351. Establishment

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 249, §22 (RP).

§17352. Survivors' contribution

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 249, §22 (RP).

§17353. Survivors' contribution rate

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2007, c. 249, §22 (RP).

ARTICLE 6

STATE RETIREE HEALTH INSURANCE FUND

§17401. Establishment and limitation of fund

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1995, c. 368, §G8 (AMD). PL 2007, c. 249, §23 (RP).

§17402. Payment of premium

(REPEALED)

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1995, c. 368, §G9 (AMD). PL 2007, c. 249, §23 (RP).

ARTICLE 7

STATE RETIRED TEACHERS' HEALTH INSURANCE FUND

§17411. Establishment and limitation of fund

(REPEALED)

SECTION HISTORY

PL 1987, c. 450, §§1,3 (NEW). PL 1995, c. 368, §G11 (AMD). PL 2007, c. 249, §24 (RP).

§17412. Payment of premium

(REPEALED)

SECTION HISTORY

PL 1987, c. 450, §§1,3 (NEW). PL 1995, c. 368, §G12 (AMD). PL 2007, c. 249, §24 (RP).

§17413. Administration of fund

(REPEALED)

SECTION HISTORY

PL 1987, c. 450, §§1,3 (NEW). PL 1995, c. 368, §G13 (RP).

ARTICLE 8

DISABILITY RETIREMENT BENEFIT FUND

§17421. Establishment

(REPEALED)

SECTION HISTORY

PL 1989, c. 409, §§5,12 (NEW). PL 2007, c. 249, §25 (RP).

§17422. Disability contribution

(REPEALED)

SECTION HISTORY

PL 1989, c. 409, §§5,12 (NEW). PL 2007, c. 249, §25 (RP).

§17423. Disability contribution rate

(REPEALED)

SECTION HISTORY

PL 1989, c. 409, §§5,12 (NEW). PL 2007, c. 249, §25 (RP).

ARTICLE 9

RETIREE HEALTH INSURANCE POST-EMPLOYMENT BENEFITS INVESTMENT TRUST FUND

§17431. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

1. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

2. Investment trust fund. "Investment trust fund" means the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established in section 17432.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

3. Assets of the investment trust fund. "Assets of the investment trust fund" means the funds appropriated or otherwise provided to fund the investment trust fund, together with the interest, earnings and returns on the funds.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

4. Investment trust fund agreement. "Investment trust fund agreement" means the trust agreement to be entered into by the State and the trustees of the investment trust fund.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

5. System. "System" means the Maine Public Employees Retirement System.
[PL 2007, c. 58, §3 (REV); PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. RRR, §2 (NEW).

§17432. Establishment

1. Investment trust fund established. The Retiree Health Insurance Post-employment Benefits Investment Trust Fund is established as an irrevocable trust for the sole purpose of holding and investing funds appropriated or otherwise provided to the investment trust fund for the benefit of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B with respect

to the State's liabilities for retiree health benefits. The purpose of accumulating assets in this investment trust fund is to provide funding of the State's unfunded liability obligations for retiree health benefits. The Legislature has no authority or power to divert any of the assets of the investment trust fund to use for any other purpose.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

2. Date of establishment. The date of establishment of the investment trust fund is July 1, 2007.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

3. Trustees. The trustees of the investment trust fund are the members of the Board of Trustees of the Maine Public Employees Retirement System.
[PL 2007, c. 58, §3 (REV); PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. RRR, §2 (NEW).

§17433. Statutory references

Notwithstanding that Article 9 is placed in the Maine Revised Statutes in Part 20, chapter 421, subchapter 4, any reference to "Part," "in this Part," "under this Part" or similar wording in Part 20 is inapplicable to every provision in this article. Article 9 stands apart from all other provisions of this Part except by explicit reference. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. RRR, §2 (NEW).

§17434. Administration of investment trust fund

1. Administration. The trustees of the investment trust fund may delegate to the chief executive officer, Chief Investment Officer or other staff of the system as appropriate the responsibility to carry out, as directed by the trustees of the investment trust fund, the administration of the investment trust fund and its investment and disbursement activities.
[PL 2007, c. 240, Pt. RRR, §2 (NEW); PL 2021, c. 548, §45 (REV).]

2. Expenses. Associated administrative costs and expenses attributable to the investment trust fund must be charged to the investment trust fund.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. RRR, §2 (NEW). PL 2021, c. 548, §45 (REV).

§17435. Duties of the trustees of the investment trust fund

The trustees of the investment trust fund have the following duties. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

1. Manage assets. The trustees of the investment trust fund shall hold, invest, reinvest and manage assets appropriated to the investment trust fund and all other assets of the investment trust fund for the sole benefit of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B and may not encumber, invest, divest or disburse the funds for any other purpose. The trustees of the investment trust fund have full power to hold, purchase, sell, assign, transfer and dispose of any such assets and investments and will provide for all necessary services with respect to such assets.

The primary goals of the investment trust fund are the preservation and growth of principal in accordance with long-term investment assumptions established from time to time by the Board of Trustees of the Maine Public Employees Retirement System for the defined benefits plans of the system, as considered appropriate by the trustees of the investment trust fund.
[PL 2007, c. 58, §3 (REV); PL 2007, c. 240, Pt. RRR, §2 (NEW).]

2. Investment policy. Except as provided in subsection 3, the trustees of the investment trust fund shall determine and revise as necessary an appropriate investment trust fund investment policy, including but not limited to provisions for asset allocation and investment strategy. This policy must take into account the following factors as established by the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 and as may be revised in the investment trust fund agreement from time to time:

A. A long-term time horizon for the assets of the investment trust fund; [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

B. A funding plan; and [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

C. A projected disbursement schedule that does not begin before the year 2027. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

3. Transfer of funds before policy established. Any funds transferred to the investment trust fund prior to the establishment of the investment policy in subsection 2 must be held and transitionally invested in a prudent manner as determined by the trustees of the investment trust fund.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

4. Investment and management of assets. The trustees of the investment trust fund shall invest and manage the assets of the investment trust fund in accordance with the requirements of subsections 1 and 2 and with the reasonable care, skill and expertise of a prudent investor.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

5. Investment expenses. The trustees of the investment trust fund may incur reasonable investment expenses payable from the assets of the investment trust fund, including but not limited to services of investment managers, investment consultants, actuaries, investment counsel, banks and trust companies and other investment professionals or advisors as they consider necessary and prudent in determining investment policy, in investing funds and in liquidating assets.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

6. Disbursement of funds. The trustees of the investment trust fund may disburse funds from the investment trust fund only to the Irrevocable Trust Fund for Other Post-employment Benefits as established in section 286-B, subsection 2. The trustees of the Irrevocable Trust Fund for Other Post-employment Benefits must present jointly a lawful payment order. The trustees of the investment trust fund have no responsibility to ensure that the stated use or actual use by the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits of such money is to fund retiree health benefits. The trustees of the investment trust fund's duties under the investment trust fund are discharged by disbursing money under the terms of this subsection.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

7. Report. The trustees of the investment trust fund shall provide annually a report to the State, the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 and the joint standing committee of the Legislature having jurisdiction over the system and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The trustees of the investment trust fund shall provide quarterly to the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits a report of the performance of the investment trust fund.
[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. RRR, §2 (NEW).

§17436. Liability and immunity of trustees of the investment trust fund

1. Limited liability of trustees of the investment trust fund. A trustee of the investment trust fund is not:

A. Personally liable for any liability, loss or expense suffered by the investment trust fund, unless such a liability, loss or expense arises out of or results from the willful misconduct or intentional wrongdoing of that trustee of the investment trust fund; [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

B. Responsible for the adequacy of the investment trust fund to meet and discharge any obligation; or [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

C. Required to take action to enforce the payment of any contribution or appropriation to the investment trust fund. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

2. Immunity of trustees of the investment trust fund. The trustees of the investment trust fund are immune from suit on any and all tort claims seeking recovery of damages to the same extent as governmental entities under the Maine Tort Claims Act.

[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

3. Legal representation and defense of trustees of the investment trust fund. The Attorney General is legal counsel to the trustees of the investment trust fund and shall represent and defend the trustees of the investment trust fund, as a group and individually, in connection with any claim, suit or action at law arising out of the performance or nonperformance of any actions related to the investment trust fund to the same extent as provided for governmental entities in the Maine Tort Claims Act.

[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

4. Performance of essential governmental functions. The exercise of the powers conferred by this article is held to be the performance of essential governmental functions.

[PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. RRR, §2 (NEW).

§17437. Exemption from taxation

The money in the investment trust fund is exempt from any state, county or municipal tax in the State. [PL 2007, c. 240, Pt. RRR, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. RRR, §2 (NEW).

§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 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, or Governmental Accounting Standards Board Statement Number 75, Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions. The State is obligated to comply with the reporting requirements under Governmental Accounting Standards Board Statement Number 74 and Governmental Accounting Standards Board Statement Number 75. The system shall account for the assets of the investment trust fund in its annual financial statements. [PL 2017, c. 88, §20 (AMD).]

SECTION HISTORY

PL 2007, c. 240, Pt. RRR, §2 (NEW). PL 2017, c. 88, §20 (AMD).

§17439. Information for administrative or judicial proceedings

If information regarding the investment trust fund is required from the system or the trustees of the investment trust fund for an administrative or judicial proceeding, the party seeking the information

must file a written request for that information with the Chief Executive Officer of the Maine Public Employees Retirement System. The chief executive officer or the chief executive officer's designee shall make a certified response to that request within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the system be required to testify on the subjects covered by the certified response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony. The chief executive officer shall notify the trustees of the Irrevocable Trust Fund for Other Post-employment Benefits established in section 286-B, subsection 2 immediately of any request for information, subpoena or other form of discovery. [PL 2007, c. 58, §3 (REV); PL 2007, c. 240, Pt. RRR, §2 (NEW); PL 2021, c. 548, §45 (REV).]

SECTION HISTORY

PL 2007, c. 58, §3 (REV). PL 2007, c. 240, Pt. RRR, §2 (NEW). PL 2021, c. 548, §45 (REV).

SUBCHAPTER 5

APPEALS

§17451. Appeals

1. Decision of chief executive officer. Any person aggrieved by a decision or ruling of the chief executive officer may appeal the decision or ruling to the board.

A. To appeal a person must apply in writing to the board within 30 days after receiving written notice of the chief executive officer's decision or ruling. [PL 1985, c. 801, §§ 5, 7 (NEW); PL 2021, c. 548, §548 (REV).]

B. In any appeal proceeding, the board may investigate and consider all issues of fact or law, including the reasons for the decision or ruling of the chief executive officer. [PL 1985, c. 801, §§ 5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

C. The appeal proceeding is an adjudicatory proceeding within the meaning of chapter 375, subchapter IV. [PL 1985, c. 801, §§ 5, 7 (NEW).]

D. The board shall complete the appeal proceeding within 90 days of receiving the written application for appeal. [PL 1985, c. 801, §§ 5, 7 (NEW).]

[PL 1985, c. 801, §§ 5, 7 (NEW); PL 2021, c. 548, §45 (REV).]

2. Decision of board. Any person aggrieved by a decision or ruling of the board in an adjudicatory proceeding is entitled to judicial review of the decision or ruling in accordance with chapter 375, subchapter VII.

[PL 1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 2021, c. 548, §45 (REV).

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