

## CHAPTER 27

### JUDICIAL RETIREMENT ON OR AFTER DECEMBER 1, 1984

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

##### §1201. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**1. Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts credited to a member's individual account, together with regular interest thereon. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**2. Actuarial equivalent.** "Actuarial equivalent" means a benefit which is of equal value when computed at regular interest, based on the mortality and service tables adopted by the board of trustees. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**3. 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 a judge, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest; or [PL 1989, c. 133, §15 (NEW).]

B. The average annualized rate of earnable compensation of a member during the entire period of creditable service if that period is less than 3 years. [PL 1989, c. 133, §15 (NEW).]

If a member took one or more days off without pay during the fiscal year beginning July 1, 2002, as authorized by the State Court Administrator, and the member elects to make the contribution provided for in section 1306, the average final compensation must be determined as if the member had not taken those days off without pay.

[PL 2003, c. 486, §1 (AMD).]

**4. Beneficiary.** "Beneficiary" means any person who receives or is designated to receive a benefit provided by this chapter.

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**5. Board of trustees.** "Board of trustees" means the board provided for in section 1231.

[PL 1983, c. 863, Pt. B, §§ 8, 45 (AMD).]

**6. Child or children.**

[PL 1989, c. 133, §16 (RP).]

**6-A. 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 1989, c. 133, §17 (NEW).]

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. [PL 1989, c. 133, §17 (NEW).]

[PL 1989, c. 133, §17 (NEW).]

**7. Consumer Price Index.** "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics; or, if the index is revised or superseded, the board shall employ the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor that the board of trustees finds to be most reflective of changes in the purchasing power of the dollar for the broadest population of consumers, including retired consumers.

[PL 2003, c. 387, §1 (AMD).]

**8. Creditable service.** "Creditable service" means membership service and prior service as a judge which is credited towards retirement in accordance with subchapter IV.

[PL 1983, c. 863, Pt. B, §§ 8, 45 (AMD).]

**9. Earnable compensation.** "Earnable compensation" means the annual salary as a judge. Any money paid by the State under an annuity contract for the future benefit of a judge must be considered part of the judge's earnable compensation. The earnable compensation of a member retired with a disability retirement allowance under section 1353 must be assumed, for the purposes of determining benefits under this chapter, to be continued after the member's date of termination of service at the same rate as received immediately prior thereto, subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 1358. For a member who served as a judge any time between July 1, 2003 and June 30, 2005, earnable compensation includes the salary that would have been paid for a judge in the given year if the cost-of-living adjustments in fiscal year 2003-04 and fiscal year 2004-05 had been funded. For a member who served as a judge any time between July 1, 2010 and June 30, 2011, earnable compensation includes the salary that would have been paid for a judge in that year if the cost-of-living adjustment in fiscal year 2010-11 had been funded.

[PL 2009, c. 571, Pt. MMMM, §1 (AMD); PL 2009, c. 571, Pt. MMMM, §3 (AFF).]

**10. Father.**

[PL 1989, c. 133, §18 (RP).]

**11. Fiduciary.** "Fiduciary" means a bank or a professional investment manager.

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**11-A. Internal Revenue Code.** "Internal Revenue Code" or "Code" means the United States Internal Revenue Code of 1986, as amended.

[PL 2009, c. 474, §6 (NEW).]

**12. Judge.** "Judge" means a Justice of the Supreme Judicial Court or the Superior Court, any Judge of the District Court, any Administrative Court Judge or any Associate Administrative Court Judge who is actively serving as of December 1, 1984, or who is appointed subsequent to December 1, 1984, but does not include Active Retired Judges.

[PL 2001, c. 12, §1 (AMD).]

**12-A. Medical provider.** "Medical provider" means a physician or clinical psychologist.

[PL 2017, c. 88, §4 (NEW).]

**13. Member.** "Member" means a judge who is included in the membership of the Maine Judicial Retirement System as provided in section 1301.

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**14. Membership service.** "Membership service" means service rendered while a member of the Maine Judicial Retirement System for which credit is allowed under section 1302.

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**15. Mother.**

[PL 1989, c. 133, §18 (RP).]

**16. Parent.**

[PL 1989, c. 133, §18 (RP).]

**16-A. Prior service.** "Prior service" means all service before December 1, 1984, as a judge.  
[PL 1983, c. 863, Pt. B, §§ 9, 45 (NEW).]

**17. Regular interest.** "Regular interest" means interest at the rate which the Board of Trustees of the Maine Public Employees Retirement System sets from time to time, in accordance with Title 5, section 17156.

[PL 1989, c. 502, Pt. A, §10 (AMD); PL 2007, c. 58, §3 (REV).]

**18. Retirement.** "Retirement" means the termination of membership service with a retirement allowance granted under this chapter.

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**19. Spouse.** "Spouse" means the person currently legally married to a member.  
[PL 1989, c. 133, §19 (AMD).]

**20. Surviving spouse.** "Surviving spouse" means the spouse alive at the time of the death of the member or former member.

[PL 1989, c. 133, §20 (NEW).]

SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B8,9,10,B45 (AMD). PL 1989, c. 133, §§15-20 (AMD). PL 1989, c. 502, §A10 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 12, §1 (AMD). PL 2003, c. 387, §1 (AMD). PL 2003, c. 486, §1 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 449, §1 (AMD). PL 2007, c. 449, §3 (AFF). PL 2009, c. 254, §1 (AMD). PL 2009, c. 254, §4 (AFF). PL 2009, c. 474, §6 (AMD). PL 2009, c. 571, Pt. MMMM, §1 (AMD). PL 2009, c. 571, Pt. MMMM, §3 (AFF). PL 2017, c. 88, §4 (AMD).

**§1202. Name, establishment and purpose**

There is established the Judicial Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. [PL 2009, c. 474, §7 (AMD).]

The purpose of the Judicial Retirement Program is to provide retirement allowances and other benefits under this chapter for judges. [PL 2007, c. 491, §34 (AMD).]

SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2007, c. 491, §34 (AMD). PL 2009, c. 474, §7 (AMD).

**§1203. 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 a person under this chapter and the money in the various funds created by this chapter are not subject to execution, garnishment, attachment or any other process and are unassignable except that: [PL 1991, c. 746, §2 (RPR); PL 1991, c. 746, §10 (AFF).]

**1. Retirement allowance available for child support.** A member's retirement allowance is available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;  
[PL 1991, c. 746, §2 (NEW); PL 1991, c. 746, §10 (AFF).]

**2. Accumulated contributions available for child support.** A member's accumulated contributions that are refundable under sections 1305-A and 1305-B are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

[PL 2011, c. 606, §5 (AMD).]

**3. Qualified domestic relations order.** The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059; and

[PL 2011, c. 606, §6 (AMD).]

**4. Forfeiture and restitution.** The rights and benefits of a member or retiree under this chapter 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, §7 (NEW).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B11,B45 (AMD). PL 1991, c. 746, §2 (RPR). PL 1991, c. 746, §10 (AFF). PL 2007, c. 137, §5 (AMD). PL 2011, c. 606, §§5-7 (AMD).

#### §1204. Beneficiaries under disability

Any beneficiary who is entitled to make an election of benefits under subchapter 5, but is not lawfully qualified to make that election, shall have that election made in the beneficiary's behalf by the person authorized to do so by Title 18-C, Article 5. [PL 2017, c. 402, Pt. C, §7 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2017, c. 402, Pt. C, §7 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

#### §1205. Internal Revenue Code compliance

The Judicial Retirement Program established in this chapter is subject to the following requirements. [PL 2009, c. 474, §8 (NEW).]

**1. Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

[PL 2009, c. 474, §8 (NEW).]

**2. Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

[PL 2009, c. 474, §8 (NEW).]

**3. Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

[PL 2009, c. 474, §8 (NEW).]

**4. Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the Maine Public Employees Retirement System.

[PL 2009, c. 474, §8 (NEW).]

**5. Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. [PL 2009, c. 474, §8 (NEW).]

**6. Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37). [PL 2009, c. 474, §8 (NEW).]

**7. Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Judicial Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan. [PL 2009, c. 474, §8 (NEW).]

**8. Compliance with Section 503(b).** Effective July 1, 1989, the board of trustees may not engage in a transaction prohibited by the Code, Section 503(b). [PL 2009, c. 474, §8 (NEW).]

**9. Rules.** The board of trustees shall adopt rules necessary to maintain the qualified pension plan tax status of the Judicial Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 474, §8 (NEW).]

#### SECTION HISTORY

PL 2009, c. 474, §8 (NEW).

## SUBCHAPTER 2

### ADMINISTRATION

#### §1231. Board of trustees

The Board of Trustees of the Judicial Retirement Program consists of those persons who are members of the Board of Trustees of the Maine Public Employees Retirement System. The Board of Trustees of the Judicial Retirement Program is responsible for the proper operation and implementation of the Judicial Retirement Program under this chapter. [PL 2007, c. 491, §35 (AMD).]

**1. Duties.** The board of trustees has the same duties with respect to the Judicial Retirement Program as with other programs of the Maine Public Employees Retirement System, including, but not limited to, those powers and duties enumerated in Title 5, chapter 421, subchapters 3, 4 and 5. [PL 2007, c. 491, §35 (AMD).]

**2. Administration of Judicial Retirement Program.** The board of trustees shall administer the Judicial Retirement Program and is authorized to adopt and publish, in accordance with Title 5, chapter 375, subchapter 2, any rules necessary and proper to give effect to the intent, purposes and provisions of this chapter. [PL 2007, c. 491, §35 (AMD).]

**3. Expenses.** The trustees must be compensated, as provided in Title 5, chapter 379, from the funds of the Judicial Retirement Program. [PL 2007, c. 491, §35 (AMD).]

**4. Oath.** Each trustee shall, within 30 days after that 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. The oath must be subscribed to by the trustee making it, certified by the officer before whom it is taken and immediately filed in the office of the Secretary of State.

[PL 2001, c. 181, §2 (AMD).]

**5. Quorum.** Each voting trustee is entitled to one vote in the board of trustees. Five trustees constitute a quorum for the transaction of any business. Five votes are necessary for any resolution or action by the board of trustees at any meeting of the board of trustees.

[PL 2007, c. 491, §35 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B12,13,B45 (AMD). PL 1989, c. 133, §21 (AMD). PL 1999, c. 127, §A1 (AMD). PL 1999, c. 790, §D4 (AMD). PL 2001, c. 181, §2 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §35 (AMD).

#### §1232. Executive director

The Executive Director of the Maine Public Employees Retirement System is the Executive Director of the Judicial Retirement Program. The executive director has the same powers and duties with respect to the Judicial Retirement Program as with other programs of the Maine Public Employees Retirement System, except as provided in this chapter. [PL 2007, c. 491, §36 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §36 (AMD).

#### §1233. Actuary

The actuary of the other programs of the Maine Public Employees Retirement System is the Actuary of the Judicial Retirement Program. [PL 2007, c. 491, §37 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §37 (AMD).

#### §1234. Medical board

A medical board of the other programs of the Maine Public Employees Retirement System established in section 17106, subsection 1 is the medical board of the Judicial Retirement Program. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the Supreme Judicial Court its conclusions and recommendations upon all the matters referred to it. The board of trustees may designate other medical providers to provide medical consultation on judicial disability cases. [PL 2017, c. 88, §5 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B14,B45 (AMD). PL 1995, c. 643, §2 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §38 (AMD). PL 2017, c. 88, §5 (AMD).

#### §1235. Administrative procedures

Appeal from the executive director's decision is the same as provided for other programs of the Maine Public Employees Retirement System in Title 5, section 17451. [PL 2007, c. 491, §39 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1989, c. 133, §22 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §39 (AMD).

#### §1236. Legal adviser

The Attorney General or an assistant designated by the Attorney General is the legal adviser of the Board of Trustees of the Judicial Retirement Program. [PL 2007, c. 491, §40 (AMD).]

#### SECTION HISTORY

PL 1983, c. 863, §§B15,B45 (NEW). PL 2007, c. 491, §40 (AMD).

### SUBCHAPTER 3

#### FINANCING

##### §1251. Control of funds

The board of trustees is the trustee of the funds created by this chapter and shall administer those funds in the same manner as is provided for the administration of the other program funds of the Maine Public Employees Retirement System in accordance with Title 5, chapter 421, subchapters 3 and 4. The board of trustees may establish separate funds or accounts within a fund, as necessary. [PL 2007, c. 491, §41 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1989, c. 133, §23 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §41 (AMD).

##### §1252. Custodian of funds

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2007, c. 249, §7 (RP).

##### §1253. Expenses

All administrative operating expenses of the Judicial Retirement Program must be charged to the assets of the Judicial Retirement Program. [PL 2007, c. 491, §42 (AMD).]

###### 1. Estimate funds biennially.

[PL 2007, c. 240, Pt. U, §3 (RP).]

###### 2. Balance.

[PL 2007, c. 240, Pt. U, §3 (RP).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 2007, c. 240, Pt. U, §3 (RPR). PL 2007, c. 491, §42 (AMD).

##### §1254. Investments

The board of trustees may combine funds from the Judicial Retirement Program and assets of other programs of the Maine Public Employees Retirement System for investment purposes. The assets and funds of other programs of the Maine Public Employees Retirement System and the assets and funds of the Judicial Retirement Program may not be combined for benefit payment purposes or for administrative expenses. [PL 2007, c. 491, §43 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B16,B45 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §43 (AMD).

##### §1255. Legislative findings and intent

**1. Findings.** The Legislature finds that the State owes a great debt to its retired judges for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to judges through the Judicial Retirement Program.  
[PL 2007, c. 491, §44 (AMD).]

**2. Intent.** It is the intent of the Legislature that there is appropriated and transferred annually to the Judicial Retirement Program the funds necessary to meet the program's long-term and short-term financial obligations based on the actuarial assumptions established by the board of trustees upon the advice of the actuary. The goal of the actuarial assumptions is to achieve a fully funded program. The program's unfunded liability for members formerly subject to sections 5, 103 and 157-A, is funded by annual appropriations over the funding period of the program. This section does not apply to justices and judges who retired prior to December 1, 1984.  
[PL 2007, c. 491, §44 (AMD).]

**3. Implementation.** It is the responsibility of the board of trustees to calculate the funds necessary to maintain the program on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and to transmit those calculations to the State Budget Officer as required by Title 5, sections 1661 to 1667. It is the responsibility of the Legislature to appropriate and transfer those funds annually.  
[PL 2007, c. 491, §44 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B17,B45 (AMD). PL 2007, c. 491, §44 (AMD).

### SUBCHAPTER 4

#### MEMBERSHIP AND CONTRIBUTION

##### §1301. Membership

Every judge serving on the court on or after December 1, 1984 must be a member of the Judicial Retirement Program as a condition of employment. [PL 2009, c. 415, Pt. A, §2 (AMD).]

A member shall cease to be a member when he withdraws his contributions, becomes a beneficiary as a result of his own retirement or dies. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

The State Court Administrator shall submit to the board a statement showing the name, title, compensation, sex, date of birth and length of service of each member and any other information as the board may require at such times as the board may require. [PL 1983, c. 863, Pt. B, §§ 18, 45 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B18,B45 (AMD). PL 2009, c. 415, Pt. A, §2 (AMD).

##### §1302. Creditable service

Creditable service for the purpose of determining benefits under this chapter shall be allowed as follows: [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

**1. Membership service.** All judicial service of a member after November 30, 1984, for which contributions are made shall be allowed as creditable service.  
[PL 1989, c. 133, §24 (AMD).]

**1-A. Prior service.** All service of a member as a judge before December 1, 1984, shall be allowed as creditable service.



[PL 1983, c. 863, Pt. B, §§ 19, 45 (NEW).]

**2. Disability retirement.** The period following the termination of service for which a beneficiary receives disability retirement allowance payments under section 1353 shall be allowed as membership service.

[PL 1983, c. 863, Pt. B, §§ 19, 45 (AMD).]

**3. State Employee and Teacher Retirement Program and Legislative Retirement Program service.** Creditable service as a member of the State Employee and Teacher Retirement Program or the Legislative Retirement Program must be allowed as creditable service of the Judicial Retirement Program as follows.

A. Any member who has not withdrawn that member's accumulated contributions with the State Employee and Teacher Retirement Program may, upon appointment as a judge, have that member's State Employee and Teacher Retirement Program contributions and membership service transferred to that member's account with the Judicial Retirement Program and all creditable service resulting from membership in the State Employee and Teacher Retirement Program is creditable service in the Judicial Retirement Program.

All funds in the State Employee and Teacher Retirement Program contributed by the employer on account of employment are transferred to the Judicial Retirement Program and must be used to liquidate the liability incurred by reason of that member's previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Judicial Retirement Program for the member as have accrued to the member by reason of the member's previous employment and may accrue to the member by reason of membership in the Judicial Retirement Program. [PL 2007, c. 491, §45 (AMD).]

A-1. Any member who has not withdrawn that member's accumulated contributions with the Legislative Retirement Program may, upon appointment as a judge, elect to have that member's Legislative Retirement Program contributions and membership service transferred to that member's account with the Judicial Retirement Program and have all creditable service resulting from membership in the Legislative Retirement Program count as creditable service in the Judicial Retirement Program. The member must pay an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit that results from inclusion of the creditable service in the Legislative Retirement Program as creditable service in the Judicial Retirement Program.

All funds in the Legislative Retirement Program contributed by the employer on account of the member's previous membership in the Legislative Retirement Program are transferred to the Judicial Retirement Program and must be used to liquidate the liability incurred by reason of that member's previous membership. [PL 2009, c. 267, §1 (NEW).]

B. Any member who has withdrawn that member's accumulated contributions from the State Employee and Teacher Retirement Program or the Legislative Retirement Program may, subsequent to appointment as a judge and prior to the date any retirement allowance becomes effective for that member, deposit in the fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by that member together with interest at 2% greater than regular interest from the date of withdrawal to the date of repayment. If repayment is made in installments, interest continues to accrue on the outstanding balance. The member is entitled to all creditable service that the member acquired during previous membership. In the event any retirement allowance becomes effective before repayment is completed, the member is entitled to credit for that portion of the total of the previous creditable service which the total amount of payments actually made bears to the total amount, including interest at 2% greater than regular interest from the date of withdrawal to the date the retirement allowance becomes effective. [PL 2009, c. 267, §1 (AMD).]

C. [PL 1985, c. 693, §8 (RP).]

D. A person may not receive benefits under both the Judicial Retirement Program and the State Employee and Teacher Retirement Program or the Legislative Retirement Program based upon the same period of service. [PL 2009, c. 267, §1 (AMD).]

[PL 2009, c. 267, §1 (AMD).]

**4. Amount of service per year.** The board shall establish by rule the amount of creditable service to be granted for service rendered during a year, subject to the following conditions.

A. No credit may be allowed for a period of absence without pay of more than one month's duration; and [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

B. No more than one year of service may be credited for all service in one calendar year. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

[PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B19,B45 (AMD). PL 1985, c. 693, §8 (AMD). PL 1989, c. 133, §24 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §45 (AMD). PL 2009, c. 267, §1 (AMD).

#### §1303. State contribution

**1. Payment.** For each member, the State shall pay annually into the fund an amount known as the employer contribution.

[PL 1989, c. 133, §25 (AMD).]

**2. Employer contribution rate.** The rate of the employer contribution is fixed on the basis of the assets and liabilities of the Judicial Retirement Program as shown by actuarial valuation and is expressed as a percentage of the annual earnable compensation of each member.

A. The employer contribution rate represents the percentage of the members' compensation payable during periods of membership required to provide the difference between the total liabilities for retirement allowances not provided by the members' contributions and the amount of the assets in the fund. [PL 2007, c. 491, §46 (AMD).]

B. The employer contribution rate is determined on actuarial bases adopted by the board of trustees. The rate is determined by the board of trustees after each valuation and continues in force until a new valuation is made. [PL 2007, c. 491, §46 (AMD).]

[PL 2007, c. 491, §46 (AMD).]

**3. State contribution procedure.** The board of trustees shall submit budget estimates to the State Budget Officer in accordance with Title 5, section 1665. On each payroll for judges from which retirement contributions are deducted, the State Controller shall cause a charge to be made of an amount or amounts in payment of the state costs of all charges related to the Judicial Retirement Program and which must be credited to the appropriate accounts of the fund. Percentage rates to be predetermined by the actuary and approved by the board of trustees must be applied to the total gross salaries of members appearing on those payrolls and the resultant charges must be periodically credited to the retirement fund.

[PL 2007, c. 491, §46 (AMD).]

**4. Minimum amount of employer contribution.** The aggregate payment by the State into the fund must be at least sufficient to provide the benefits payable out of the fund and the administrative operating expenses of the Judicial Retirement Program during the current year.

[PL 2007, c. 491, §46 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B20,B45 (AMD). PL 1989, c. 133, §25 (AMD). PL 2007, c. 240, Pt. U, §4 (AMD). PL 2007, c. 491, §46 (AMD).

#### **§1304. Employees' contributions**

On and after July 1, 1993, each member in service shall contribute at a rate of 7.65% of earnable compensation, except that judges whose earnable compensation includes imputed cost-of-living adjustments under section 1201, subsection 9, shall contribute based on the compensation actually paid. [PL 2007, c. 449, §2 (AMD); PL 2007, c. 449, §3 (AFF).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B21,B45 (AMD). PL 1989, c. 133, §26 (AMD). PL 1993, c. 410, §L4 (AMD). PL 2007, c. 449, §2 (AMD). PL 2007, c. 449, §3 (AFF).

#### **§1305. Return of accumulated contributions**

##### **(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1989, c. 133, §27 (AMD). PL 1993, c. 387, §A2 (AMD). PL 1997, c. 651, §2 (AMD). PL 2007, c. 137, §6 (RP).

#### **§1305-A. Refund of accumulated contributions**

**1. Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this chapter, the member must be paid the amount of the member's accumulated contributions under the following conditions:

- A. The member must have properly applied for a refund of accumulated contributions; [PL 2007, c. 137, §7 (NEW).]
- B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears; [PL 2007, c. 137, §7 (NEW).]
- C. An application for refund is void if the member filing the application returns to membership in any retirement program administered by the Maine Public Employees Retirement System before issuance of the payment; and [PL 2007, c. 491, §47 (AMD).]
- D. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection. [PL 2007, c. 137, §7 (NEW).]

[PL 2007, c. 491, §47 (AMD).]

#### SECTION HISTORY

PL 2007, c. 58, §3 (REV). PL 2007, c. 137, §7 (NEW). PL 2007, c. 491, §47 (AMD).

#### **§1305-B. Inactive accounts**

**1. Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 1305-A and who has terminated service, except by death or by retirement under this chapter, and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

- A. The member account in the retirement system has been inactive for 3 or more years; [PL 2007, c. 137, §8 (NEW).]
- B. Only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; and [PL 2007, c. 137, §8 (NEW).]

C. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit. [PL 2007, c. 137, §8 (NEW).]

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this section may not exceed \$1,000.

[PL 2009, c. 474, §9 (AMD).]

#### SECTION HISTORY

PL 2007, c. 137, §8 (NEW). PL 2009, c. 474, §9 (AMD).

#### §1306. Back contribution for certain days off without pay

**1. Election.** If the Maine Public Employees Retirement System determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for fiscal year 2002-03 days off without pay as described in section 1201, subsection 3, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

[PL 2007, c. 491, §48 (AMD).]

**2. Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that person would have made on wages that would have been paid to that person on the days off without pay during the 2002-03 fiscal year as described in section 1201, subsection 3, plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. If the member elects to make the payment, the Maine Public Employees Retirement System shall withhold the required amount from the member's first retirement benefit check.

[PL 2009, c. 474, §10 (AMD).]

**3. Benefit calculation.** If the member fails to make the election within 31 days of the notification provided under subsection 1, the Maine Public Employees Retirement System shall calculate the member's retirement benefit without inclusion of the days off without pay during the 2002-03 fiscal year.

[PL 2007, c. 491, §48 (AMD).]

#### SECTION HISTORY

PL 2003, c. 486, §2 (NEW). PL 2007, c. 491, §48 (AMD). PL 2009, c. 474, §10 (AMD).

### SUBCHAPTER 5

#### PAYMENT OF BENEFITS

##### §1351. Eligibility for retirement

Upon written application to the board setting forth the date upon which the member chooses to retire, any member may retire upon meeting one of the following. [PL 1991, c. 528, Pt. EEE, §2 (AMD); PL 1991, c. 528, Pt. EEE, §18 (AFF); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. EEE, §2 (AMD); PL 1991, c. 591, Pt. EEE, §18 (AFF).]

**1. Age 60; at least 10 years of creditable service on July 1, 1993.** Any member who on July 1, 1993 had at least 10 years of creditable service may retire on or after the member's 60th birthday.

[PL 1999, c. 756, §5 (AMD).]

**1-A. Age 62; less than 10 years of creditable service on July 1, 1993.** Any member who on July 1, 1993 had less than 10 years of creditable service may retire on or after the member's 62nd birthday if:

- A. The member has at least 10 years of creditable service; or [PL 1999, c. 756, §6 (NEW).]
- B. The member has at least 5 years of creditable service and:
  - (1) Was in service on October 1, 1999;
  - (2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or
  - (3) Was first in service on or after October 1, 1999. [PL 1999, c. 756, §6 (NEW).]

[PL 1999, c. 756, §6 (NEW).]

**1-B. At least 5 years creditable service on July 1, 2011.** Eligibility for retirement for a member who on July 1, 2011 had at least 5 years of creditable service is governed by subsection 1 if the member had 10 years of creditable service on July 1, 1993 or by subsection 1-A, if the member had less than 10 years of creditable service on July 1, 1993.

[PL 2011, c. 380, Pt. T, §5 (NEW).]

**1-C. Less than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 had less than 5 years of creditable service may retire at 65 years of age or thereafter, whether or not the member is in service at retirement, as long as the member has at the time of retirement at least 5 years of creditable service.

[PL 2011, c. 380, Pt. T, §6 (NEW).]

**2. Age 70.** Any member in service may retire on or after the member's 70th birthday, provided that the member has been in service, as a judge, for at least one year immediately before retirement. [PL 1991, c. 528, Pt. EEE, §2 (AMD); PL 1991, c. 528, Pt. EEE, §18 (AFF); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. EEE, §2 (AMD); PL 1991, c. 591, Pt. EEE, §18 (AFF).]

**2-A. Five-year minimum creditable service requirement for eligibility to receive a service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1-A, 1-B or 1-C applies only to:

- A. A member who was in service on October 1, 1999; [PL 1999, c. 756, §7 (NEW).]
- B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or [PL 1999, c. 756, §7 (NEW).]
- C. A member who was first in service on or after October 1, 1999. [PL 1999, c. 756, §7 (NEW).]

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

[PL 2011, c. 380, Pt. T, §7 (AMD).]

**3. Early retirement; at least 10 years of creditable service on July 1, 1993.** Any member, whether or not in service at retirement, who on July 1, 1993 had at least 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 60th birthday. The retirement allowance is determined in accordance with section 1352, except that it is reduced by multiplying the retirement allowance by a fraction that represents the ratio of the amount of a life annuity due at age 60 to the amount of a life annuity due at the age of retirement. The tables of annuities in effect at the date of retirement are used for this purpose.

For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, section F-6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

[PL 1999, c. 756, §8 (AMD).]

**3-A. Early retirement; less than 10 years creditable service on July 1, 1993.** Any member, whether or not in service at retirement, who on July 1, 1993 had less than 10 years of creditable service and who has completed at least 25 years of creditable service may retire any time before the member's 62nd birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 62.

[PL 1999, c. 756, §9 (AMD).]

**3-B. Early retirement; less than 5 years creditable service on July 1, 2011.** Any member, whether or not in service at retirement, who on July 1, 2011 had less than 5 years of creditable service and who had completed at least 25 years of creditable service may retire any time before the member's 65th birthday. The retirement allowance is determined in accordance with section 1352, except that the benefit is reduced by 6% for each year that the member's age precedes age 65.

[PL 2011, c. 380, Pt. T, §8 (NEW).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B22,B45 (AMD). PL 1985, c. 693, §9 (AMD). PL 1991, c. 528, §EEE2 (AMD). PL 1991, c. 528, §§EEE18,RRR (AFF). PL 1991, c. 591, §EEE2 (AMD). PL 1991, c. 591, §EEE18 (AFF). PL 1993, c. 410, §§L5-8 (AMD). PL 1999, c. 756, §§5-9 (AMD). PL 1999, c. 756, §6 (AMD). PL 2011, c. 380, Pt. T, §§5-8 (AMD).

#### §1352. Retirement benefits

**1. Amount.** The service retirement allowance of a member is determined under the provisions of this chapter in effect on the member's date of final termination of service. Subject to the maximum benefit provided for in subsection 3-A and the minimum benefit provided for in subsection 4, the total amount of the retirement allowance of a member retired in accordance with section 1351 is equal to the sum of:

A. 1/50 of the member's average final compensation multiplied by the number of years of membership service, from December 1, 1984 to June 30, 1998 and creditable service allowed under section 1302, subsection 3; [PL 1997, c. 643, Pt. M, §12 (AMD).]

B. The earned benefit for prior service as a judge as determined by subsection 2; and [PL 1997, c. 643, Pt. M, §12 (AMD).]

C. Three percent of the member's average final compensation multiplied by the number of years of membership service beginning July 1, 1998. [PL 1997, c. 643, Pt. M, §12 (NEW).]

[PL 2001, c. 439, Pt. VV, §1 (AMD).]

**2. Benefit for service prior to December 1, 1984.** The earned benefit for judicial service prior to December 1, 1984, is equal to the years of service prior to December 1, 1984, not to exceed 10 years, divided by 10, multiplied by 75% of the salary as of November 30, 1984, for the position from which the judge retired.

[PL 1997, c. 643, Pt. M, §12 (AMD).]

**3. Maximum benefit.**

[PL 2001, c. 439, Pt. VV, §2 (RP).]

**3-A. Maximum benefit.** Except as provided in subsection 4, a judge in service on December 1, 1984, or appointed on or after December 1, 1984, may not receive a benefit that exceeds 70% of that judge's average final compensation, not including adjustments under section 1358. The benefit amount of any judge retired prior to the effective date of this subsection whose benefit amount was limited according to the terms of former subsection 3 must be recalculated according to this subsection and the recalculated amount must be paid retroactive to the judge's effective date of retirement.

[PL 2001, c. 439, Pt. VV, §3 (NEW).]

**4. Minimum benefit.** Each judge in service on December 1, 1984, who is 50 years of age or older on that date is entitled to a minimum benefit equal to 75% of the salary as of June 30, 1984, for the position from which the judge retired, increased by 6% compounded annually, for each year or part of a year served subsequent to June 30, 1984, up to and including June 30, 1989. For each year or part of a year served after June 30, 1989, the allowance is increased by an amount equal to the cost-of-living factor granted the previous September, as determined pursuant to section 1358, compounded annually.

[PL 1997, c. 643, Pt. M, §12 (AMD).]

**5. Termination of benefits.** The service retirement benefit of a judge ceases upon the return to service as a judge. A judge returned to service continues to earn credit toward retirement.

[PL 1997, c. 643, Pt. M, §12 (AMD).]

**6. Service beyond age 70.**

[PL 1989, c. 133, §28 (RP).]

SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B23-25,B45 (AMD). PL 1985, c. 693, §10 (AMD). PL 1985, c. 737, §§C3,6 (AMD). PL 1989, c. 133, §28 (AMD). PL 1997, c. 643, §M12 (AMD). PL 2001, c. 439, §§VV1-3 (AMD).

**§1353. Disability retirement**

**1. Conditions.** Any member who becomes disabled while in service may receive a disability retirement allowance by order of at least 5 Justices of the Supreme Judicial Court or upon written application to the executive director, review and report of the application by the medical board and approval of that application by at least 5 of the Justices of the Supreme Judicial Court if that member is mentally or physically incapacitated to the extent that it is impossible for that member to perform the duties as a judge and the incapacity is expected to be permanent, as shown by medical examination or tests. A qualified medical provider mutually agreed upon by the executive director and member shall conduct the examinations or tests at an agreed upon place, and the costs must be paid by the Maine Public Employees Retirement System.

A. [PL 1991, c. 887, §1 (RP).]

B. [PL 1991, c. 887, §1 (RP).]

[PL 2017, c. 88, §6 (AMD).]

**1-A. Eligibility for disability.**

A. A member with less than 5 years of continuous creditable service immediately preceding an application for a disability allowance is not eligible for that disability retirement allowance if that disability is the result of a physical or mental condition which existed prior to the person's latest membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty. [PL 2007, c. 491, §49 (AMD).]

B. [PL 1997, c. 384, §1 (RP).]

[PL 2007, c. 491, §49 (AMD).]

**2. Amount.** When a member qualified under subsection 1 and, if applicable, subsection 1-A, paragraph A, retires, the amount of a disability retirement allowance is 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under Title 5, section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years after that time. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered under subsection 1 as written prior to its amendment by Public Law 1991, chapter 887, section 1 may receive a disability retirement allowance when, in addition to meeting the requirements of subsection 1, the member has not completed the eligibility requirements for retirement under section 1351, subsection 1, 1-A or 2. When such a member is entitled to receive a disability retirement allowance, the amount of the allowance is 66 2/3% of the member's average final compensation.

[PL 1997, c. 384, §2 (AMD).]

**3. Commencement.** Disability retirement allowance payments shall commence on the first day of the month following the date of termination of active service of the member. Termination of active service shall create a vacancy on the court.

[PL 1989, c. 133, §29 (AMD).]

**4. Continuance.** Payment of a disability retirement allowance shall continue subject to subsection 7 and the following conditions.

A. During the first 2 years, the allowance continues as long as the beneficiary can not perform the duties of a judge. [PL 1991, c. 633 (AMD).]

B. After that period, the allowance shall continue only if the beneficiary is unable to engage in any substantially gainful activities for which he is qualified by training, education or experience. [PL 1983, c. 853, Pt. C, §§15, 18 (NEW).]

C. The executive director may require the beneficiary to undergo annual medical examinations or tests for the purpose of determining whether the beneficiary is incapacitated. These examinations or tests must be conducted by a qualified medical provider, mutually agreed upon by the executive director and beneficiary, at a place also mutually agreed upon, and the costs of the examination or tests must be paid by the Maine Public Employees Retirement System. If the beneficiary refuses to submit to an examination or tests, the beneficiary's disability allowance ceases until the beneficiary agrees to the examination or tests. If the beneficiary's refusal continues for one year, all rights to any further benefits under this section terminate. [PL 2017, c. 88, §7 (AMD).]

D. For purposes of this subsection, the disability beneficiary's average final compensation at retirement shall be used to determine his earning capacity in the relation to his ability to engage in a substantially gainful activity. It shall be adjusted by the same percentage, if any, as applied to the beneficiary's retirement allowance under section 1358. [PL 1983, c. 863, Pt. B, §§26, 45 (AMD).]

[PL 2017, c. 88, §7 (AMD).]

**5. Earnings.** The executive director may require each disability beneficiary to submit an annual statement of earnings received from any gainful occupation during that year. For any year during which the total of those earnings and the disability allowance exceeds the current salary of the position that the disabled beneficiary last held, the excess must be deducted from any disability retirement allowance payments made to the beneficiary during the next calendar year. These deductions are prorated on a monthly basis, in an equitable manner prescribed by the board of trustees, over the year or part of the



year for which benefits are received. The beneficiary is responsible for reimbursing the Maine Public Employees Retirement System for any excess earnings not so deducted.

If a beneficiary does not submit an earnings statement within 30 days of receiving a request from the executive director, the disability retirement allowance is discontinued until the statement is submitted. If the statement is not submitted within one year of receiving a request, all the beneficiary's rights to any further benefits cease.

[PL 2007, c. 491, §51 (AMD).]

**6. Reduction.** The disability retirement allowance must be reduced if a disability beneficiary is receiving or has received payments for the same disability under the workers' compensation law, or similar law, except for amounts that may be paid or payable under former Title 39, section 56 or 56-A or Title 39-A, section 212, subsection 2 or 3.

The total of the allowance, not including adjustments under section 1358 and the payment described in the preceding paragraph, may not exceed 80% of the beneficiary's average final compensation. The disability retirement allowance may in no event be reduced below the actuarial equivalent of the beneficiary's accumulated contributions at the time of retirement.

If the disability beneficiary has received a lump-sum settlement of workers' compensation benefits, any portion of that settlement not attributable to vocational rehabilitation, attorneys' fees or medical expenses must reduce the disability retirement allowance in the same manner and amount as monthly workers' compensation benefits. The reduction must be prorated on a monthly basis in an equitable manner prescribed by the board.

If amounts paid or payable under workers' compensation or the amount of the lump-sum settlement or its attribution are in dispute, those disputes must be settled by a single member of the Workers' Compensation Board as provided under Title 39-A. Determinations of the commissioner may be appealed in the manner provided by Title 39-A, section 322.

[PL 1991, c. 885, Pt. E, §5 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

#### **7. Change to service retirement.**

A. The disability retirement allowance of a beneficiary must cease whenever the service retirement allowance of the beneficiary would equal or exceed the amount of the member's disability retirement allowance. For a member who by election or by having retired on disability retirement prior to October 16, 1992 remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 3, the disability retirement allowance must cease at age 70, or prior to that age, whenever the service retirement allowance would equal or exceed the amount of the disability retirement allowance. [PL 1997, c. 384, §3 (AMD).]

B. A service retirement allowance shall be paid to the beneficiary commencing on the date of termination of the disability retirement allowance as determined in paragraph A. [PL 1983, c. 853, Pt. C, §§15, 18 (NEW).]

[PL 1997, c. 384, §3 (AMD).]

#### **SECTION HISTORY**

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B26,B45 (AMD). PL 1989, c. 133, §29 (AMD). PL 1991, c. 633 (AMD). PL 1991, c. 885, §E5 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1991, c. 887, §§1-3 (AMD). PL 1993, c. 595, §1 (AMD). PL 1995, c. 643, §3 (AMD). PL 1997, c. 384, §§1-3 (AMD). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §§49-51 (AMD). PL 2017, c. 88, §§6, 7 (AMD).

#### **§1354. Restoration to service**

**(REPEALED)**

#### **SECTION HISTORY**

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B27,B45 (RP).

### §1355. Ordinary death benefits

If a member who is in service or a former member who is a recipient of a disability retirement allowance dies, the member's beneficiary, or relative if the member has no designated beneficiary, is entitled to benefits on the same basis as provided for beneficiaries of state employees who are members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article 3. [PL 2007, c. 491, §52 (AMD).]

#### 1. Death before eligibility for service retirement.

[PL 1989, c. 133, §30 (RP).]

#### 2. Death after eligibility for retirement.

[PL 1989, c. 133, §30 (RP).]

#### 3. Election of benefits.

[PL 1989, c. 133, §30 (RP).]

#### 4. Cost-of-living adjustments.

[PL 1989, c. 133, §30 (RP).]

### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B28-30,B45 (AMD). PL 1989, c. 133, §30 (RPR). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §52 (AMD).

### §1355-A. Minimum ordinary death benefits

**1. Benefit.** Notwithstanding the provisions of section 1355, any eligible surviving spouse and dependent child or children of a judge who was in service prior to December 1, 1984, shall, upon the death of that judge, be entitled to a minimum benefit of 1/2 the retirement benefit of the judge, determined in accordance with section 1352, on the assumption that retirement of the judge had taken place on the date of death. If more than one child is eligible for this benefit, it shall be divided equally among them. This benefit shall continue as long as the spouse or child or children remain eligible. [PL 1989, c. 133, §31 (AMD).]

**2. Eligibility.** Eligibility for the minimum benefit of this section is determined as follows.

A. A surviving spouse is eligible as long as that spouse does not become the dependent of another person. [PL 1983, c. 853, Pt. C, §§ 15, 18 (NEW).]

B. The dependent child or children are eligible until they no longer meet the definition of "dependent child" under section 1201, subsection 6-A. [PL 1989, c. 133, §32 (AMD).]  
[PL 1989, c. 133, §32 (AMD).]

**3. Election of benefits.** The benefits described in this section shall be instead of any benefits payable under either section 1355 or section 1356.

Any person entitled to receive benefits under this section may elect, before benefit payments begin, to receive benefits under section 1355 or section 1356 instead of these benefits, if all requirements of that section are complied with.

[PL 1983, c. 863, Pt. B, §§ 32, 45 (NEW).]

**4. Cost-of-living adjustments.** Payments made under subsection 1 shall be adjusted pursuant to section 1358 in the same manner as retirement allowances.

[PL 1983, c. 863, Pt. B, §§ 32, 45 (NEW).]

### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B31,32,B45 (AMD). PL 1989, c. 133, §§31,32 (AMD).

**§1356. Accidental death benefits**

If a member or a former member who is receiving a disability retirement allowance dies as a result of an injury received in the line of duty, benefits are paid on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, chapter 423, subchapter 5, article 5. [PL 2007, c. 491, §53 (AMD).]

**1. Benefit.**

[PL 1989, c. 133, §33 (RP).]

**2. Reduction and termination.**

[PL 1989, c. 133, §33 (RP).]

**3. Election of benefits.**

[PL 1989, c. 133, §33 (RP).]

## SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B33,34,B45 (AMD). PL 1989, c. 133, §33 (RPR). PL 2007, c. 58, §3 (REV). PL 2007, c. 491, §53 (AMD).

**§1357. Payment of regular retirement allowances**

**1. Normal method of payment.** Payment of all regular retirement allowances shall begin on the first day of the month following the month in which the member becomes eligible to receive payment of regular retirement allowance under section 1351 or 1353, subsection 7. A full month's allowance shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. All regular retirement allowances shall be paid for life in equal monthly installments, unless an alternative method of payment under one of the options of subsection 2 has been elected.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who is the recipient of a retirement allowance under the normal method of payment, the surviving spouse who is the named beneficiary at the date of retirement shall become entitled to 1/2 of the amount being paid at the time of the member's death which payment shall continue for the remainder of the spouse's lifetime.

Upon the death of a former member who was in service as a judge prior to December 1, 1984, and who is 50 years of age or older on that date and who becomes the recipient of a disability retirement allowance, the surviving spouse who is the named beneficiary shall become entitled to 1/2 the amount that the member would have been entitled to as a service retirement allowance under the normal method of payment as of the date of the member's death.

[PL 1989, c. 133, §34 (AMD).]

**2. Optional methods of payment.** In lieu of payment under subsection 1, a qualifying member may elect to receive a regular retirement allowance under one of the options set out in this subsection. The optional allowance is a reduced allowance computed actuarially on the basis of the option selected.

The qualifying member may elect one of the options by written request to and approval of the executive director prior to the commencement of payment of a regular retirement allowance. The election may be revoked by written notice to the executive director at any time before the regular retirement allowance commences.

For the purposes of this subsection, "qualifying member" means a member or a former member who is receiving a disability retirement benefit.

A. Under Option 1, the qualifying member may elect to have a reduced retirement benefit paid to the qualifying member while alive and at the qualifying member's death to have the excess, if any, of the qualifying member's accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is

the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director or, if no one has been nominated as beneficiary, to the qualifying member's estate. [PL 1999, c. 744, §1 (RPR); PL 1999, c. 744, §17 (AFF).]

B. Under Option 2, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary that the qualifying member has nominated by written designation duly notarized and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [PL 1999, c. 744, §1 (RPR); PL 1999, c. 744, §17 (AFF).]

C. Under Option 3, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary that the qualifying member has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member. [PL 1999, c. 744, §1 (RPR); PL 1999, c. 744, §17 (AFF).]

D. Under Option 4, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under paragraphs B or C payable to the beneficiary that the qualifying member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [PL 2007, c. 491, §54 (AMD).]

E. Under Option 5, the qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board of trustees, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System. [PL 2007, c. 491, §55 (AMD).]

F. Under Option 6, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [PL 2007, c. 491, §56 (AMD).]

G. Under Option 7, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the Maine Public Employees Retirement System, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [PL 2007, c. 491, §57 (AMD).]

H. Under Option 8, the qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have some benefit other than that available under paragraph B or C payable to the beneficiary that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member. [PL 1999, c. 744, §1 (NEW); PL 1999, c. 744, §17 (AFF).]

[PL 2007, c. 491, §§54-57 (AMD).]

**3. Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 2, paragraphs B to H, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the Maine Public Employees Retirement System. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [PL 2009, c. 415, Pt. A, §3 (RPR).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 2, paragraph E has been elected, the new beneficiary's benefit must become effective on the same date. [PL 2009, c. 415, Pt. A, §3 (RPR).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

- (1) The date of the new beneficiary's death; or
- (2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life

expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [PL 2009, c. 415, Pt. A, §3 (RPR).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [PL 2009, c. 415, Pt. A, §3 (RPR).]

[PL 2009, c. 415, Pt. A, §3 (RPR).]

**4. Notice to spouse.** A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1 and is not covered by the automatic spousal benefits provisions in that subsection, or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

A. By written certification of the spouse, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been received from the qualifying member; or [PL 2007, c. 491, §59 (AMD).]

B. When notice has been given, but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the Maine Public Employees Retirement System indicating that notice has been given to the spouse. [PL 2007, c. 491, §60 (AMD).]

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

[PL 2007, c. 491, §§59, 60 (AMD).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B35,B45 (AMD). PL 1985, c. 475, §§1,4 (AMD). PL 1989, c. 133, §34 (AMD). PL 1999, c. 744, §§1,2 (AMD). PL 1999, c. 744, §17 (AFF). PL 2007, c. 491, §§54-60 (AMD). PL 2007, c. 523, §1 (AMD). PL 2009, c. 415, Pt. A, §3 (AMD).

#### §1358. Cost-of-living and other adjustments

**1. Cost-of-living adjustments.** Except as provided in subsection 2, paragraph A, retirement allowances under this chapter must be adjusted on the same basis as provided for members of the State Employee and Teacher Retirement Program by Title 5, section 17806.

A. [PL 2011, c. 380, Pt. T, §9 (RP).]

A-1. [PL 2011, c. 380, Pt. T, §9 (RP).]

B. [PL 2011, c. 380, Pt. T, §9 (RP).]

C. [PL 2011, c. 380, Pt. T, §9 (RP).]

D. [PL 2011, c. 380, Pt. T, §9 (RP).]

[PL 2011, c. 380, Pt. T, §9 (RPR).]

**2. Retirement allowances.** Retirement allowances under section 1352, subsection 4.

A. Beginning in July 1985, and each July thereafter, through July 1989, retirement allowances under section 1352, subsection 4, shall be increased by 6% compounded annually. [PL 1985, c. 693, §11 (NEW).]

B. Beginning in September 1990, and each September thereafter, retirement allowances under section 1352, subsection 4, shall be adjusted as provided in subsection 1. [PL 1985, c. 693, §11 (NEW).]

[PL 1985, c. 693, §11 (NEW).]

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B36,B45 (AMD). PL 1985, c. 693, §11 (RPR). PL 1993, c. 410, §§L8-A (AMD). PL 1993, c. 595, §2 (AMD). PL 2007, c. 249, §8 (AMD). PL 2009, c. 433, §§1, 2 (AMD). PL 2009, c. 473, §1, 2 (AMD). PL 2011, c. 380, Pt. T, §9 (AMD).

#### **§1359. Termination of retirement benefits for conflict of interest**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 853, §§C15,18 (NEW). PL 1983, c. 863, §§B37,B45 (RP).

#### **§1360. Remarriage after retirement**

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C, D or E remarries after the retiree's spouse dies, the following provisions apply. [PL 1999, c. 744, §3 (AMD); PL 1999, c. 744, §17 (AFF).]

**1. Election of benefit for new spouse.** The retiree may elect to have the reduced retirement benefit paid under the same option to the new spouse after the retiree's death instead of continuing the original reduced retirement allowance to the retiree during the retiree's lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement allowance under section 1357, subsection 2, paragraph B, C, D or E; and [PL 1999, c. 744, §4 (AMD); PL 1999, c. 744, §17 (AFF).]

B. The retiree must have been married to the new spouse for at least 6 months. [PL 1989, c. 133, §35 (NEW).]

[PL 1999, c. 744, §4 (AMD); PL 1999, c. 744, §17 (AFF).]

**2. Time and manner of election.** The retiree may make the election at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and [PL 1989, c. 133, §35 (NEW).]

B. Submitting evidence of the death of the former spouse and date of marriage to the new spouse. [PL 1989, c. 133, §35 (NEW).]

[PL 1989, c. 133, §35 (NEW).]

**3. Amount of benefit.** The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement allowance the retiree has been receiving.

[PL 1989, c. 133, §35 (NEW).]

**4. Effective date of coverage of new spouse.** The effective date of the designation of the new spouse as the retiree's new beneficiary shall be the date the request is received or 6 months after the date of remarriage, whichever comes later. The retiree's retirement allowance shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[PL 1989, c. 133, §35 (NEW).]

#### SECTION HISTORY

PL 1989, c. 133, §35 (NEW). PL 1999, c. 744, §§3,4 (AMD). PL 1999, c. 744, §17 (AFF).

**§1361. Divorce**

If a retiree who is the recipient of a reduced regular retirement allowance under section 1357, subsection 2, paragraph B, C, D or E is granted a divorce either after retirement or before a retirement beneficiary is named, subsections 1 to 4 apply. [PL 1999, c. 744, §5 (AMD); PL 1999, c. 744, §17 (AFF).]

**1. Election of benefit for different beneficiary.** The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 1357, subsection 2, paragraph B, C, D or E; and [PL 1999, c. 744, §6 (AMD); PL 1999, c. 744, §17 (AFF).]

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood. [PL 1997, c. 55, §2 (NEW).]

[PL 2007, c. 249, §9 (AMD).]

**2. Time and manner of election.** The recipient may make the election at any time after the divorce is granted by:

A. Sending a written request to the executive director; and [PL 1997, c. 55, §2 (NEW).]

B. Submitting evidence of the divorce. [PL 1997, c. 55, §2 (NEW).]

[PL 1997, c. 55, §2 (NEW).]

**3. Amount of benefit.** The amount of the benefit payable under the option elected is the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving, plus the amount expected to be paid to the original spouse after the recipient's death.

[PL 1997, c. 55, §2 (NEW).]

**4. Effective date of coverage of new beneficiary.** The effective date of the designation of the recipient's new beneficiary is the date the request is received. The recipient's retirement benefit must be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[PL 1997, c. 55, §2 (NEW).]

**SECTION HISTORY**

PL 1997, c. 55, §2 (NEW). PL 1999, c. 744, §§5,6 (AMD). PL 1999, c. 744, §17 (AFF). PL 2007, c. 249, §9 (AMD).

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