



MainePERS

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Board of Trustees

Public Meeting Packet

February 9, 2023

**MainePERS Board of Trustees
February 9, 2023
139 Capitol Street, Augusta**

AGENDA

9:00 a.m. ¹		CALL TO ORDER		Brian Noyes
9:00 – 9:05 a.m.	1.	<u>GOVENDA NAVIGATION</u>		Joy Childs
9:05 – 9:10 a.m.	2.	<u>CONSIDERATION OF CONSENT CALENDAR</u>	ACTION	Brian Noyes
		<ul style="list-style-type: none">Minutes of January 12, 2023Consideration of Items Removed		
9:10 – 9:20 a.m.	3.	<u>CEO REPORT</u>		Dr. Rebecca M. Wyke
9:20 – 9:40 a.m.	4.	<u>PRIVATE MARKET ACTIONS</u>	ACTION	Brian Noyes
		<ul style="list-style-type: none">Executive Session pursuant to 1 M.R.S. §405(6)(F); 5 M.R.S. §17057(4)		
		<i>Board moves out of executive session.</i>		
		<ul style="list-style-type: none">ISAM Systematic ManagementAres Capital Europe VISummit Europe Growth Equity IVHigh Street Real Estate VII Venture	ACTION ACTION ACTION ACTION	James Bennett Zackery McGuire
9:40 – 9:50 a.m.	5.	<u>DIVESTMENT STATUTES AND INVESTMENT POLICY STATEMENT</u>	ACTION	James Bennett Zackery McGuire
		<ul style="list-style-type: none">Amendment to Board Policy 2.1 – Investment Policy Statement		
9:50 – 10:15 a.m.	6.	<u>PRIVATE MARKETS REVIEW</u>		James Bennett, Zackery McGuire Ed Schwartz, Thorsen Eriksen, ORG Tom Lynch, George Bumeder, Cliffwater
		<ul style="list-style-type: none">Private Markets ActivityReal Estate Quarterly ReviewCliffwater Quarterly Review		
10:15 – 10:30 a.m.		<u>BREAK</u>		
10:30 – 11:00 a.m.	7.	<u>INVESTMENT REVIEW</u>		James Bennett, Zackery McGuire Brian McDonnell, Stuart Cameron, Cambridge Assocs.
		<ul style="list-style-type: none">Investment Monthly ReviewQuarterly Rebalancing ReportInvestment Quarterly ReviewRisk Diversifier Quarterly Review		

¹ All times are estimated based upon the anticipated length of each presentation, hearing, discussion, and action. The presiding officer may take agenda items out of order for more efficient or effective conduct of the meeting.

11:00 – 11:20 a.m.	8.	<u>RULEMAKING</u>		Kathy Morin
		• Rule Chapter 506 – Eligibility for Disability Retirement Benefits	ACTION	
		• Repeal of Rule Chapter 507 – Determination of Inability to Engage in Substantially Gainful Activity	ACTION	
		• Repeal of Rule Chapter 509 – Determination of Inability to Perform the Functions of the Employment Position	ACTION	
		• Amendments to Rule Chapter 510 – Reduction of Disability Retirement Benefits because of Lump-Sum Settlements of Benefits Payable under the Workers' Compensation or Similar Law or the United States Social Security Act	ACTION	
		• Amendments to Rule Chapter 511 – Standards for Actively Seeking Work	ACTION	
		• Amendments to Rule Chapter 702 – Appeals	ACTION	
11:20 – 11:25 a.m.	9.	<u>LEGISLATIVE UPDATE</u>		Kathy Morin
11:25 – 11:35 a.m.	10.	<u>OPERATIONS AND MEMBER SERVICES REPORT</u>		Chip Gavin Rebecca Grant
		• Text-Em-All Test		
11:35 – 11:40 a.m.	11.	<u>LITIGATION SUMMARY</u>		Betsy Stivers
11:40 – 11:50 a.m.	12.	<u>BOARD POLICY REVIEW</u>		Brian Noyes Dr. Rebecca M. Wyke
		• Amendments to Board Policy 4.3 – Monitoring Chief Executive Officer Performance	ACTION	
11:50 a.m.		<u>ADJOURNMENT</u>		Brian Noyes

MAINEPERS

BOARD OF TRUSTEES MEMORANDUM

TO: BOARD MEMBERS
FROM: MICHAEL J. COLLERAN, CHIEF OPERATING OFFICER AND GENERAL COUNSEL
SUBJECT: GOVENDA
DATE: FEBRUARY 1, 2023

This month's Board materials are being provided through the traditional means and through the new Govenda platform. MainePERS Director of Information Joy Childs will provide a brief overview of Govenda navigation at the beginning of the meeting and will be available throughout the meeting to provide assistance.

POLICY REFERENCE

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communication and Support to the Board](#)

RECOMMENDATION

No Board action is required.

MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Minutes

Board of Trustees
Board Meeting
January 12, 2023

MainePERS
Augusta
9:00 a.m.

The Board of Trustees met at MainePERS, 139 Capitol Street, Augusta, ME 04332 at 9:00 a.m. on January 12, 2023. Brian Noyes, Chair, presided. Other Trustees participating were; Dick Metivier, Vice Chair; Greg Olson, Deputy State Treasurer; John Beliveau; Shirrin Blaisdell; Mark Brunton; John Kimball; and Ken Williams. Joining the Trustees were Dr. Rebecca Wyke, Chief Executive Officer; Michael Colleran, Chief Operating Officer and General Counsel; Chip Gavin, Chief Services Officer; Monica Gorman, Secretary to the Board of Trustees; and Betsy Stivers, Assistant Attorney General and Board Counsel. The Board also was joined for select portions of the meeting by James Bennett, Chief Investment Officer; Zackery McGuire, Deputy Chief Investment Officer; Mara McGowen, Supplemental Benefits Manager; Stephanie Whitney, Disability Retirement Business Leader; Stuart Cameron, Cambridge Associates; Tom Lynch and George Bumeder, Cliffwater; and Ed Schwartz, ORG.

Brian Noyes called the meeting to order at 9:00 a.m. Greg Olson, Dick Metivier, and Mark Brunton participated through video remote access pursuant to 1 M.R.S. § 403-B, having been excused from in-person attendance by the Board Chair due to illness. All other Trustees were physically present.

CONSIDERATION OF THE CONSENT CALENDAR

The Chair called for consideration of the Consent Calendar. The action items on the Consent Calendar were:

- Minutes of December 8, 2022
- Action. Ken Williams made the motion, seconded by Shirrin Blaisdell, to approve the Consent Calendar. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

Brian Noyes asked the guests to introduce themselves to the Trustees.

CEO REPORT

Dr. Rebecca Wyke shared with the Trustees that next month's meeting will include the new electronic version of the board book by Govenda.

She stated the Trustees have received updates and information regarding the divestment legislation. Today the Investment Team will be discussing current and ongoing exposure to fossil fuel investments and recommendations for amending Board Policy 2.1. We also will present the report on divestment that is due to the Legislature in January.

Dr. Wyke shared MainePERS staff will be providing a presentation to the Trustees outlining key provisions of the new disability law and an overview of the current process when

applying for disability. The report includes additional opportunities for program improvements that will be explored in the coming months. The report is due to the Legislature at the end of January.

Disability Retirement Program

Chip Gavin, Mara McGowen, and Stephanie Whitney did a presentation that provided an outline of key provisions of the new law, an overview of the current application process, and key points of interest. The Trustees asked and the group answered various questions regarding the program.

PRIVATE MARKETS ACTION

Blackstone Property Partners

- **Action:** John Beliveau made the motion, seconded by John Kimball, that MainePERS redeem up to \$150 million of its investments in Blackstone Property Partners, subject to final due diligence, legal review and negotiations; and authorize the Chief Executive Officer, Chief Investment Officer, and General Counsel as signatories to execute documents in connection with this action. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

PRIVATE MARKETS REVIEW

Private Markets Activity

Zack McGuire reviewed the table of private market funds and co-investments that had closed during the past 12 months. Zack shared the next manager meeting is scheduled for Tuesday, January 24, 2023, in Portland, with presentations by ISAM Systematic Management at 9:00 a.m.; Ares Capital Europe at 10:00 a.m.; and Summit Partners at 11:15 a.m. The Investment Team began its due diligence on a top-up fund of High Street Real Estate Fund VII and will bring a recommendation to the Trustees in February.

Brian Noyes requested that Trustees be provided with, at a future meeting, additional information on the Private Equity portfolio, including comparing the allocation to different benchmarks and a discussion of the investment approach taken for the allocation. Jim agreed and said that this could be done in the next meeting or two.

INVESTMENT REVIEW

Investment Monthly Review

Jim Bennett reported that as of December 31st, the MainePERS fund had a preliminary market value of \$18.1 billion, the preliminary return for the month was -0.9%, and the preliminary calendar year-to-date return was -4.3%.

Jim stated that Albourne would begin serving as the System's consultant for Real Estate, Infrastructure, and Natural Resources the week of January 16th, and that ORG will stay on for a month in order to ensure a smooth transition.

PROXY VOTING

Zack McGuire provided an overview of Board Policy 2.7, which directs the Investment Team to develop and maintain proxy voting guidelines and to engage a proxy agent, Glass Lewis, for the purpose of voting its proxies. Zack shared that the Investment Team has reviewed the 2023 Policy Guidelines from Glass Lewis. Zack answered questions from the Trustees.

DIVESTMENT

Fossil Fuel Review

Jim Bennett shared a presentation with the Trustees that will be used as the basis for discussion of the System's current and ongoing exposure to fossil fuel investments. Jim and Stuart Cameron answered questions from the Trustees.

Legislative Report

Dr. Rebecca Wyke provided an overview of the Divestment Report that was prepared for the Legislature per PL 2021, c. 231.

Dr. Wyke thanked Jim Bennett, Zack McGuire, Michael Colleran, and AAG Betsy Stivers for all their hard work in putting this report together.

Investment Policy: Draft Changes

Also included in the divestment review was a copy of Board Policy 2.1 with proposed changes related to fossil fuel divestment. After discussion with the Trustees, any changes will be made and brought before the Trustees for consideration at the February meeting.

MAINESTART

Investment Option Change

Jim Bennett and Stuart Cameron discussed investment information regarding the STAR Fund in the MaineSTART program with the Trustees. They answered questions from the Trustees and recommended removal of the fund as an option for new participants.

- **Action.** Shirrin Blaisdell made the motion, seconded by Ken Williams, that MaineSTART remove the STAR fund from the fund lineup for new participants in the 401(a), 403(b), and 457(b) programs administered by MainePERS. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

LEGISLATIVE UPDATE

Kathy Morin shared that the Legislature has convened and bills are being printed. Kathy stated a legislative committee of jurisdiction has yet to be confirmed but it appears the Labor and Housing Committee will continue to be the committee to hear pension bills. She reported one bill relating to MainePERS has been printed, L.D. 70 – COLA base elimination.

Kathy shared the reports that have been or will be prepared for presentation to the Legislature and provided to the Trustees.

RULEMAKING

Amendment to Rule Chapter 803

Michael Colleran reviewed the recommendation for amendment of Rule Chapter 803, which would provide an additional 1% cost of living adjustment for the current year as recommended by the PLD Advisory Committee.

- **Action:** Ken Williams made a motion, seconded by Dick Metivier, that the Board adopt amended Rule Chapter 803 and its Basis Statement. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

Brian Noyes reviewed the process for in-person and virtual attendees from the public to participate and comment during the public hearing on rulemaking.

Public Hearing on Proposed Rule Chapter 506

Michael Colleran summarized the proposed new Rule 506.

Sarah Walton, who spoke on behalf of Susan Hawes, provided oral comments on the proposed rule and shared that she will also provide her comments in writing.

Public Hearing on Proposed Repeal of Rule Chapter 507

Michael Colleran summarized the current rule, which is proposed to be repealed if Chapter 506 is adopted.

There were no oral comments given during the hearing.

Public Hearing on Proposed Repeal of Rule Chapter 509

Michael Colleran summarized the current rule, which is proposed to be repealed if Chapter 506 is adopted.

There were no oral comments given during the hearing.

Public Hearing on Proposed Amended Rule Chapter 510

Michael Colleran summarized the proposed amended rule.

There were no oral comments given during the hearing.

Public Hearing on Proposed Amended Rule Chapter 511

Michael Colleran summarized the proposed amended rule.

There were no oral comments given during the hearing.

Public Hearing on Proposed Amended Rule Chapter 702

Michael Colleran summarized the proposed amended rule.

Sarah Walton provided oral comments on the proposed amendments and shared that she will also provide her comments in writing.

Brian Noyes stated written comments from the public may be submitted until 4:00 p.m. on January 23, 2023.

OPERATIONS AND MEMBER SERVICES REPORT

Chip Gavin stated the routine member services data was included in the packet. Chip shared that preparations are ongoing to implement the 1% COLA for PLD participants with the February payroll. He provided the Trustees with an update on the member portal project.

Michael Colleran shared the Annual Comprehensive Financial Report has been completed. Michael thanked Sherry and her team for the timely completion of that report. He stated Employer Reporting staff are working with an employer to rectify reporting issues. He shared the Text-Em-All test for the Trustees will be done at the February meeting.

LITIGATION UPDATE

Betsy Stivers reported that the discovery deadline on the personnel matter is January 17th. After completion, the AAG handling the case will file a motion for summary judgment in an attempt to resolve issues without going to trial. In the Hawes FOA matter, a final judgement was received on the remaining count denying that last claim. Betsy shared the judge has responded to all counts, and it has been fully dismissed.

CHIEF EXECUTIVE OFFICER EVALUATION

- Action. Shirrin Blaisdell made the motion, seconded by John Beliveau, to enter into executive session pursuant to 1 M.R.S. §405(6)(A) to discuss evaluation of an employee. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

Board moved out of executive session.

CHIEF EXECUTIVE OFFICER COMPENSATION

- Action. Shirrin Blaisdell made a motion, seconded by Ken Williams, that the Board approves a 5% cost of living adjustment to the Chief Executive Officer's salary effective January 1, 2023. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

ADJOURNMENT

- Action. John Kimball made a motion, seconded by Ken Williams, to adjourn the January Board of Trustees meeting. Voted unanimously by eight Trustees (Beliveau, Blaisdell, Brunton, Kimball, Metivier, Noyes, Olson, and Williams).

The meeting adjourned at approximately 12:40 p.m.

2/9/23
Date Approved by the Board

Dr. Rebecca M. Wyke, Chief Executive Officer

Date Signed

Date: February 1, 2023
To: Board of Trustees
From: Dr. Rebecca M. Wyke, CEO
Re: CEO Report

Electronic Board Book

At this month's Board Meeting, we will implement the new electronic Board Book, Govenda. Trustees were provided access to training on the new application in January. Additionally, Trustees will be provided with material for the February meeting in both the current and new formats and a brief training will be delivered at the start of the meeting. Following the February meeting, Trustees will be provided with access to an e-book designed for public pension trustees entitled, *One of a Kind! A Practical Guide for 21st Century Public Pension Trustees*, by Funston Advisory Services LLC (FAS). FAS is recognized as one of the leading advisors to public funds in the areas of governance, operations and risk intelligence. We hope this additional educational tool will be useful to the Board in exercising its oversight of MainePERS.

Board Policy 2.1 – Investment Policy Statement

Last month, we presented the report on divestment that was due to the Legislature in January. Additionally, we presented our recommendations for amending Board Policy 2.1 – Investment Policy Statement to recognize the divestment statutes, require annual divestment reporting, and provide guidance on investments that include exposure to fossil fuels or for-profit prisons. At the Board's February meeting these changes will appear as an action item for a Board vote.

Legislative Briefings

On January 30th we provided an orientation on MainePERS for the Joint Standing Committee on Appropriations and Legislative Affairs and on January 31st we provided an orientation for the Joint Standing Committee on Labor and Housing. Copies of these presentations appear under the Legislative Update in your meeting materials. Additionally, we presented the Disability Retirement Experience Report to the Joint Standing Committee on Labor and Housing on February 2nd.

Employer Reporting

Over the past couple of months there have been several media reports of MainePERS' participating employers failing to report accurately or timely due to operational challenges they were experiencing. The Finance and Audit Committee of the Board will receive an update on the Employer Reporting Program at its February meeting.

PLD Additional 1% COLA

In January, the Board approved an additional 1% COLA for eligible retirees under the Participating Local District Consolidated Retirement Plan. The additional COLA will be implemented with the February payroll, including a retroactive payment to September 2022.

Disability Retirement Program

The Disability Experience Report was presented to the Board at its January meeting along with a set of new, amended and repealed rules pertaining to the disability retirement program and appeals of disability retirement decisions. The report has been filed with the Legislature and a copy of the report has been provided to members of the Board of Trustees. At the Board's February meeting, the new, amended and repealed rules will appear as an action item for a Board vote.

Benefit Estimator

MainePERS has added a new tool to our website www.maineopers.org. The benefit estimator allows members in a regular (non-special) plan to project service retirement benefits. At February's meeting we will provide a brief demonstration of the new tool.

MAINEPERS

BOARD OF TRUSTEES INVESTMENTS MEMORANDUM

TO: BOARD MEMBERS
FROM: JAMES BENNETT, CHIEF INVESTMENT OFFICER
SUBJECT: **DIVESTMENT STATUTES AND INVESTMENT POLICY STATEMENT MODIFICATIONS**
DATE: FEBRUARY 2, 2023

POLICY REFERENCE

[Board Policy 2.1 – Investment Policy Statement](#)

[Board Policy 2.6 – Environmental, Social, and Governance Policy](#)

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communication and Support to the Board](#)

The Investment Team, CEO, and General Counsel are recommending changes to Board Policy 2.1 – Investment Policy Statement, as shown in the marked-up document following this memo. These changes direct the Investment Team to provide Trustees with disclosures regarding the potential for fossil fuel and for-profit prison exposures when recommending new investments, and to report on the System’s exposures to these assets on an annual basis.

The Investment Team recommendations provided to Trustees for today’s investment action items contain these disclosures. We expect that the format and content of future disclosures will evolve over time based on feedback from Trustees.

RECOMMENDATION

That MainePERS update Policy 2.1 – Investment Policy Statement as shown in the marked-up document following this memo.

Board Responsibilities – Investment Policy for Defined Benefit Plans

2.1 – Investment Policy Statement

Date Adopted: June 9, 2016

Date Amended: November 10, 2016; May 11, 2017; June 8, 2017; September 14, 2017; December 14, 2017; November 12, 2020; January 14, 2021; May 12, 2022, February 9, 2023

Policy

The Board of Trustees of the Maine Public Employees Retirement System is authorized and responsible for administering defined benefit retirement programs at the State and local levels. The Board carries out this responsibility by adopting investment objectives and establishing an investment program through which the policy is implemented. In the case of conflicts, this policy statement supersedes previous policies and actions by the Board.

This policy covers the investment management of the assets of the following defined benefit programs administered by the Board:

- Legislative Retirement Program;
- Judicial Retirement Program;
- State Employee and Teacher Retirement Program, which includes State employees and public school members; and
- Participating Local District Retirement Program, which includes retirement plans of withdrawn participating local districts and the Consolidated Plan for Participating Local Districts.

Collectively, the assets of these programs are referred to as the DB Plan Assets. Statutes allow for the pooling of the DB Plan Assets for the purpose of investment. Pooling provides significant efficiencies. Because the relevant characteristics of the DB plans are sufficiently similar, all the DB Plan Assets are pooled for investment.

Statutory/Legal Provisions

- Me. Const. art. IX, § 18.
- [5 M.R.S. §§ 1957-1958 \(divestment statutes\)](#)
- 5 M.R.S. §§ 17102, 17103, 17435; 18-B M.R.S. § 801, et seq. (Maine Uniform Trust Code); 18-B M.R.S. § 901, et seq. (Maine Uniform Prudent Investor Act).
- 5 M.R.S. §§ 17153(4).
- Restatement (Third) of Trusts § 78(1) (2007) (the “sole interest rule”).
- Restatement (Third) of Trusts formally permits, and in some cases requires, the delegation of investment decisions from trustees to internal staff or external agents with the necessary skills and knowledge.

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- The Employee Retirement Income Security Act (“ERISA”), codified at 29 U.S.C. § 1002, *et seq.*, provides a description of the standard of care that applies to trustees of private sector retirement plans. Although the System as a public retirement plan is not specifically governed by the fiduciary duty standard set forth in ERISA, courts will often consider the standard set forth in ERISA when addressing public pension plan issues. Under ERISA, a fiduciary must act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person (expert) acting in a like capacity would act. This statutory standard is derived from the common law of trusts, which is applicable in the State of Maine.

Resources

The Board of Trustees implements this investment policy in coordination with:

- in-house investment professionals (the “Investment Team”), with experience, authority and responsibility to implement the investment policy and administer investment operations;
- consultants, with appropriate expertise, to assist the Board and the Investment Team;
- investment managers, selected individually and collectively to reflect and implement the investment policy, having full discretion within policy and contractual limits to manage assets allocated to them;
- custodians qualified to carry out recordkeeping, reporting, measurement and custodial functions; and
- other advisors that the Board deems appropriate and necessary

The Investment Team shall oversee the processes by which Custodians, Consultants, and other Advisors are hired, evaluated, and terminated, and shall work with the General Counsel on the terms of contracts of engagement.

At least every five years, the Investment Team will evaluate the performance and contract terms of all such service providers and make a recommendation to the Board as to whether or not a search process for new providers and/or renegotiation of terms be initiated.

Investment Objectives

MainePERS’ investment objectives balance the System’s twin goals of generating investment returns (to ensure growth of the trust funds) and minimizing investment risks (loss of capital and cash flow shortfalls). The Board recognizes and accepts that these goals are in opposition, and that a trade-off exists between expected risk and return. The Board balances these goals by seeking to optimize portfolio returns consistent with an established targeted portfolio risk level. Additionally, by optimizing investment returns on trust assets, rather than attempting to maximize them, the Board seeks to maintain contribution rate and funding level volatility at acceptable levels that have been determined from time to time during strategic asset allocation planning and asset/liability reviews.

Strategic Asset Allocation and Rebalancing

The Investment Team and Board consultants shall annually review long-term capital market expectations and existing asset class allocations with Trustees. The Board shall review, and when strategically appropriate, approve recommended changes to the existing strategic asset classes, target weights, and ranges for implementation by the Investment Team. (See Appendix 1)

The specified policy weight ranges define minimum and maximum acceptable weights for each asset class. (See Appendix 2) The Investment Team shall maintain asset class weights within target ranges, subject to considerations such as transactions costs and the unique characteristics of private market investments, by reallocating capital within existing strategies and investments. The Investment Team will provide Trustees with reports showing the fund's current asset allocation at least monthly, and report on rebalancing activity quarterly.

Portfolio Risk Management

The primary method of controlling risk shall be the selection of the strategic asset allocation and asset class target weights within the allocation. (See Appendix 1) Combined with long term capital market expectations, these policy weights define a portfolio with a specific level of risk.

The Chief Investment Officer shall develop a risk strategy for managing assets within the Board approved strategic asset allocation. The risk strategy will specify practices and procedures for the measurement and management of portfolio risk, including the provision of a portfolio risk report to the Board at least quarterly. (See Appendix 3)

Nothing in the risk strategy shall override the Asset Classes, Policy Weights and Ranges described in Appendix 1.

Performance Objectives and Benchmarks

The Board acknowledges that benchmarks provide insight into fund and asset class performance, but are not necessarily guides for changing asset allocations or fund managers. The rate of return earned by fund assets will be measured against a policy benchmark comprised of the asset class benchmarks. (See Appendix 4) Returns earned by individual managers will be compared with a benchmark index appropriate to each manager's investment approach.

For performance evaluation purposes, all rates of return will be measured net of the deduction of investment management fees.

During a period of transition from one asset allocation to another, certain transitional allocations to appropriate benchmarks are permitted.

Investment Implementation

The Investment Team shall implement the investment policy, subject to Board guidelines:

- Exposure to publicly traded equity securities is expected to be obtained passively and with weightings substantially similar to those of the benchmarks specified in Appendix 4. Any exceptions must be approved by the Board.
- Investments within each Asset Class should be consistent with the Asset Class definitions provided in Appendix 1.

Environmental, Social, and Governance; Engagement

In performing due diligence and monitoring activities, the Board and the Investment Team shall comply with Board Policy 2.6, Environmental, Social and Governance Policy; and Board Policy 2.7, Engagement.

Investment Manager Selection and Allocation Process

MainePERS invests through external investment managers, who are charged to act as fiduciaries, and allocates fund assets among them in accordance with the strategic asset allocation. The Investment Team identifies, performs due diligence on, and recommends investment managers and allocations to the Board. The Investment Team also monitors performance and recommends retention and termination decisions to the Board. The Board retains final authority for manager selection, retention and termination decisions.

Managers are selected and retained on the basis of an evaluation that establishes sufficient confidence that the manager will improve the return and risk of the investment program. If and when the Investment Team and/or consultant(s) identify an investment manager that they believe will improve the investment program, the Investment Team will make a recommendation to the Board of Trustees that the manager be hired. This recommendation will be accompanied by an opinion by the investment consultant on this recommendation. The Board retains the final authority to accept or reject such recommendations.

The Investment Team will prepare and present to the Board of Trustees selection criteria they deem pertinent for each manager search and recommendation to hire. The Investment Team will provide the Board with all the necessary information and analysis to enable an informed decision. The Board may choose to interview the recommended manager or they may rely on the Investment Team to conduct interviews.

Derivatives

In general, the use of derivatives is permitted provided that the purpose of the derivative is to achieve an investment objective at lower cost and/or risk than would be the case with direct investments in the underlying securities. The System may also invest in strategies which use derivatives to obtain leverage. In all such cases, the use of derivatives must be disclosed to the

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Board prior to the Board's approval, and the strategy must be structured so as to limit System liability to the amount committed to the strategy.

Leverage

The System may invest in strategies in which managers have discretion to use leverage. The use of leverage in any strategy must be disclosed to the Board prior to the Board's approval, and the strategy must be structured so as to limit System liability to the amount committed to the strategy.

Fossil Fuel and Private Prison Investments

The System may invest in strategies providing managers with broad discretion in the selection of investments. The potential for fossil fuel or for-profit prison investment must be disclosed to the Board prior to the Board's approval of a strategy. For those strategies likely to invest in stocks, securities or other obligations of fossil fuel or for-profit prison assets, disclosures will include a description of the expected role of such investments in the proposed strategy and discussion of the process leading to the selection of the strategy.

On an annual basis, the Board will be provided with a report summarizing the System's fossil fuel and for-profit prison investments. This report will include a discussion of the actual and expected changes in these exposures, and analysis of these exposures within the context of the divestment statutes, 5 M.R.S. §§ 1957 and 1958.

Hedging

The Board has reviewed the benefits and risks associated with foreign currency exposures. As a general rule the Board has chosen not to hedge currency at the portfolio level. Unless otherwise directed asset managers will have discretion to hedge investments under their management as they deem most beneficial to their mandate.

Transaction Costs and Brokerage

The Board of Trustees expects investment managers, in their capacity as fiduciaries, to manage transaction costs in the best interests of the System as an investor. To enable the managers to fulfill this fiduciary duty, it is the Board's policy not to be party to directed brokerage programs.

Securities Lending

The System may participate in a securities lending program either directly through its separately managed portfolios or indirectly through its investments in pooled vehicles. In each case, the

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securities lending program must focus on low risk, as opposed to maximization of returns. All DB Plan Assets are available for securities lending.

Monitoring

The Board relies on the Investment Team and the investment consultant(s) to continuously monitor the investment program and to report to the Board as outlined below.

- the Investment Team and investment consultant(s) provide comprehensive periodic reports on the entire investment program, including asset allocation, performance of each component relative to benchmarks, attribution analysis, and commentary.
- the Investment Team and investment consultant(s) monitor changes and developments at investment managers and at custodian(s) on an ongoing basis and report significant changes or events with recommended actions as needed.

Emergency Measures

Immediate action may be taken beyond the bounds of this policy under extraordinary circumstances and in order to preserve the best interests of the plans' participants by unanimous decision of the following:

- The Chair, or in the Chair's absence, Vice Chair of the Board
- The Chief Executive Officer, or in the Chief Executive Officer's absence, the Chief Operating Officer and General Counsel
- The Chief Investment Officer, or in the Chief Investment Officer's absence, Deputy Chief Investment Officer, or in the absence of both of them, the general investment consultant

Any such action must be reported to the Board of Trustees at the earliest opportunity.

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Board Responsibilities – Investment Policy

Appendix 1: Asset Classes, Policy Weights and Ranges

Date Adopted: June 9, 2016

Date Amended: June 8, 2017; September 14, 2017; January 14, 2021; May 12, 2022

The System's assets are invested across nine Asset Classes that play four distinct Roles in the overall Fund. The Trustees define these Roles and Asset Classes and set target policy weights and ranges below.

	Weights		
	Minimum	Policy	Maximum
GROWTH	35%	42.5%	55%
Public Equity	20%	30%	40%
Private Equity	5%	12.5%	20%
RISK DIVERSIFIERS	0%	7.5%	12.5%
HARD ASSETS	15%	25%	35%
Real Estate	5%	10%	15%
Infrastructure	5%	10%	15%
Natural Resources	0%	5%	10%
CREDIT	5%	15%	20%
Traditional Credit	0%	5%	10%
Alternative Credit	0%	10%	15%
MONETARY HEDGE	5%	10%	15%
US Government Securities	5%	10%	15%
Cash	0%	0%	10%

Asset Class Definitions

The below Asset Class definitions are simplified and are intended to convey the general characteristics of investments held within each class. Some investment strategies involve assets and securities that span multiple asset classes.

Public Equity

Investments in publicly-traded shares of companies. May include different classes of common stock, shares of REITs, and MLPs.

Private Equity

Investments in non-publicly traded shares of companies. Investments are typically made via private limited partnerships, and may include both equity and debt securities.

Governance Manual

MainePERS Board of Trustees

Risk Diversifiers

Investments typically made through private funds that generally invest in listed assets such as stocks, bonds, and commodities, via strategies that are expected to have little correlation with declining or rising stock markets.

Real Estate

Investments providing direct exposure Real Estate, including investments through private funds.

Infrastructure

Investments typically made through private funds that generally invest in assets that meet most or all of the following criteria: provide essential public services, possess monopoly-like characteristics, provide long term contracted cash flows, and bear limited volumetric and price risk.

Natural Resources

Investments in private funds that generally invest in businesses focused on natural resources such as timberland, agriculture, and mining. Private energy investments will generally be included in Private Equity, rather than Natural Resources.

Traditional Credit

Investments in investment-grade debt instruments that are not issued by the U.S. Government. Such debt may or may not be registered for sale to the general public.

Alternative Credit

Investments in debt instruments issued by non-investment grade and unrated entities. This may include, but is not limited to high yield debt, bank loans, structured debt, and asset-backed debt. Alternative credit investments are expected to pay or accrue periodic interest and to return principal at maturity. Distressed debt and other debt or yield-oriented securities that include equity-like exposures are considered Private Equity, not Alternative Credit.

Monetary Hedges

Investments in debt instruments issued by the U.S. Government, including nominal Treasury securities and Treasury Inflation Protected Securities (TIPS), held in approximately equal proportions.

Roles in the Overall Fund

Governance Manual

MainePERS Board of Trustees

Each of the above asset classes fills a specific Role in the overall portfolio. These Roles are defined below.

Growth Assets

Growth Assets are intended to reduce the system's funding needs in the long term by appreciating in value. Growth Assets possess inherently higher expected returns than other asset classes. Growth Assets also have higher expected volatility than other asset classes, and are expected to increase funding volatility in the short run.

Risk Diversifiers

Risk Diversifiers are investments that primarily derive their return from alpha (or active manager skill) as opposed to market directionality. Risk Diversifiers are expected to provide significant risk diversification benefits away from Growth Assets.

Hard Assets

Investments in the Hard Assets category provide exposure to long-lived "real" assets, such as real estate, timber, agricultural, and infrastructure assets. Expected return levels of Hard Assets are lower than those of Growth Assets, and a substantial portion of such returns is expected to come from ongoing cash flows. Hard Assets are expected to provide inflation protection, to have low correlation with Growth Assets, and to provide diversification benefits.

Credit Assets

Credit investments provide capital to end-users via loans and the purchase of debt securities. Such investments provide for contractual returns (interest) and repayment of principal. Credit investments possess lower risk and expected returns than equity investments, but have higher risk and expected returns than monetary hedges. Credit investments are expected to provide diversification away from Growth Assets.

Monetary Hedges

The role of Monetary Hedges in the portfolio is to provide liquidity and a safe harbor in times of turbulence. These investments are cash and obligations of the U.S. Government, and are considered to be free of default risk.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 2: Rebalancing

Date Adopted: June 9, 2016

Date Amended: May 12, 2022; July 14, 2022

The Board has set target weights for each Asset Class and Role in Portfolio category in Appendix 1, and delegates the management of asset class allocation to the Investment Team. The Investment Team is expected to maintain asset class weights near target, subject to considerations such as transactions costs and the unique funding and liquidity characteristics of private market investments.

To this end, the Team is permitted to reallocate capital within existing strategies and investments for rebalancing purposes. The Investment Team is expected to consider both Role in Portfolio and Asset Class policy weights when rebalancing. The Team will provide Trustees with reports showing the Fund's current asset allocation at least monthly, and report on rebalancing activity at least quarterly.

In the specific case of the System's Risk Diversifier allocation, the Investment Team is permitted to rebalance across existing managers and strategies, consistent with the goal of maintaining diversification within the allocation. Rebalancing activity will be reported to Trustees at least quarterly.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 3: Risk Strategy

Date Adopted: June 9, 2016

Date Amended: New

While this Risk Strategy is in development the Chief Investment Officer shall rely on the Strategic Asset Allocation and Rebalancing provisions of this policy to manage the Fund's risk.

The Investment Team and the Board believe that this approach will deliver an appropriate expected return with commensurate risk over a long term horizon. However they also recognize that the portfolio's realized risk will vary over time which may result in periods during which the fund bears substantially higher risk than the System initially targeted.

In an effort to achieve more stable (less volatile) returns, the Investment Team will seek to develop management tools and practices that they believe will be better able to keep the fund's risk in an acceptable range.

This Risk Strategy shall be updated from time to time by the Trustees to reflect recommendations developed by the Chief Investment Officer.

Nothing in the Risk Strategy shall override the Asset Classes, Policy Weights and Ranges described in Appendix 1.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 4: Policy Benchmarks

Date Adopted: June 9, 2016

Date Amended: June 8, 2017, January 14, 2021, May 12, 2022

Asset	Benchmark	Weight
Total Public Equity	Russell 3000 & MSCI ACWI ex-USA, based on ACWI weights	30%
Private Equity	Russell 3000 + 3%	12.5%
Diversifiers	0.3 Beta MSCI ACWI	7.5%
Real Estate	NCREIF Property (lagged one quarter)	10%
Infrastructure	CA Infrastructure Median	10%
Natural Resources	CA Natural Resources Median	5%
Traditional Credit	Barclays US Aggregate, ex Treasury	5%
Alternative Credit	50% BAML US HY II + 50% S&P/LSTA US Leveraged Loan Index	10%
U.S. Government Securities	50% Bloomberg Barclays U.S. Government Bond Market Index + 50% Bloomberg U.S. TIPS Index	10%

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 4: Co-Investment

Date Adopted: June 9, 2016

Date Amended: June 8, 2017; January 14, 2021; May 12, 2022

Co-investments are permitted within private market asset classes, subject to the below guidelines.

Target Allocation	7.5% of total Fund. This target is a subset of the total 47.5% allocation to private market asset classes, and is not in addition to that allocation.
Asset Classes	Co-investment may be made in each of the private market asset classes.
Discretion	Investment Team has discretion to make co-investments, in conjunction with the asset class consultant.
Signatories	The Chief Executive Officer, Chief Investment Officer, and General Counsel are authorized as signatories to execute documents in connection with co-investments.
Permissible Partners	Unless otherwise authorized, co-investments will only be made alongside Funds in which the System is a current investor.
Size Limits	Unless otherwise authorized, maximum of \$25m invested into any single co-investment. Unless otherwise authorized, maximum of \$200m aggregate co-investment in a single asset class with any single General Partner. The Investment Team will provide additional co-investment portfolio reporting to Trustees for those General Partners with more than \$100m of aggregate co-investment in any single asset class.

MAINEPERS

BOARD OF TRUSTEES INVESTMENTS MEMORANDUM

TO: BOARD MEMBERS
FROM: JAMES BENNETT, CHIEF INVESTMENT OFFICER
SUBJECT: INVESTMENT REVIEW
DATE: FEBRUARY 2, 2023

Following this memo is the Monthly Investment Review for January.

POLICY REFERENCE

[Board Policy 2.1 – Investment Policy Statement](#)

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communication and Support to the Board](#)

MONTHLY INVESTMENT REVIEW: HIGHLIGHTS AND OBSERVATIONS

Preliminary Fund results for the month include:

- Month-end fund value of \$18.5 billion.
- Monthly return of 2.1%.
- Calendar year-to-date return of 2.1%.
- Fiscal year-to-date return of 2.1%.



MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

Investment Review

February 9, 2023

Investment Policy Objective

Investment Objective

MainePERS' investment objectives balance the System's twin goals of generating investment returns (to ensure growth of the trust funds) and minimizing investment risks (loss of capital and cash flow shortfalls).

The Board recognizes and accepts that these goals are in opposition, and that a trade-off exists between expected risk and return. The Board balances these goals by seeking to optimize portfolio returns consistent with an established targeted portfolio risk level.

Additionally, by optimizing investment returns on trust assets, rather than attempting to maximize them, the Board seeks to maintain contribution rate and funding level volatility at acceptable levels that have been determined from time to time during strategic asset allocation planning and asset/liability reviews.

January 2023 Performance (Preliminary)

The **preliminary** fund value at the end of January is \$18.5 billion.



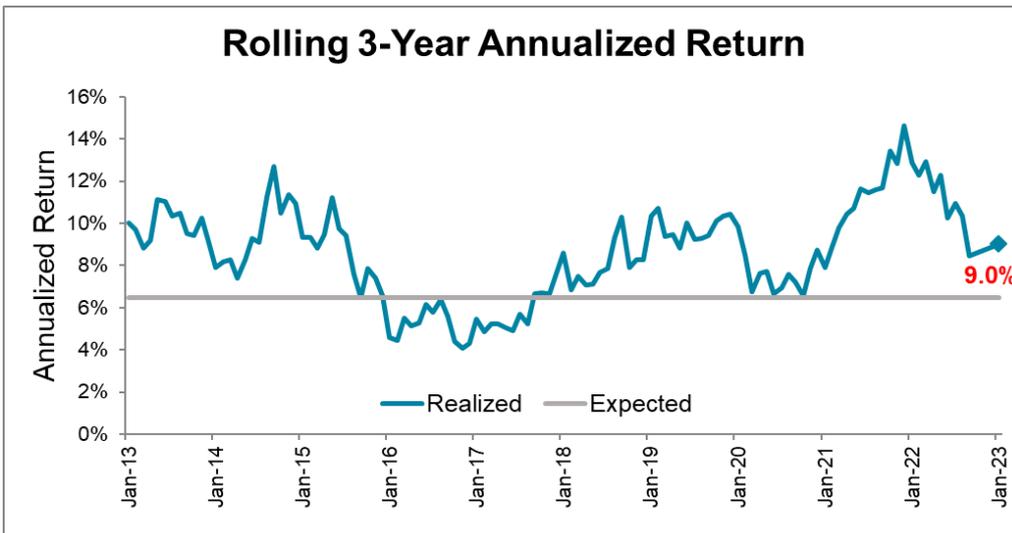
Fund and Benchmark Returns

	Jan-23	CYTD 2023	FYTD 2023
Total Fund	2.1%	2.1%	2.1%
Russell 3000	6.9%	6.9%	9.4%
MSCI ACWI ex-USA	8.1%	8.1%	11.3%
Bloomberg US Aggregate	3.1%	3.1%	0.0%

Investment Objective Measurement: Risk and Return



Despite heightened volatility in 2022, observed risk at the Fund level remains below targeted risk on a rolling 3-year annualized basis.



On a rolling 3-year annualized basis, investment returns have exceeded expected values and the System's discount rate.

Note: Rolling 3-year return and standard deviation are calculated at each point in time based on returns over prior 36 months. All figures are annualized.

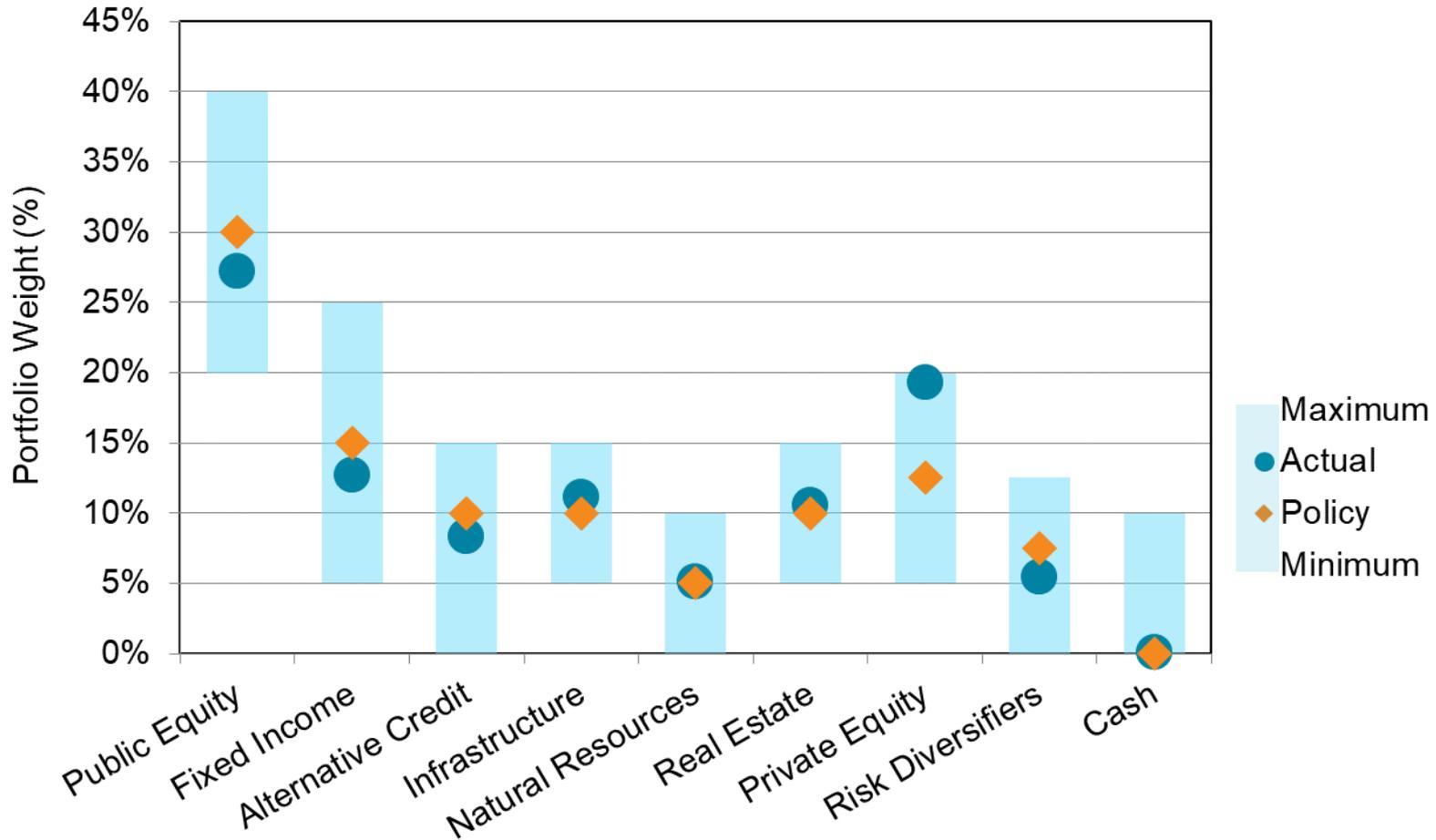
January 2023 Asset Allocation (Preliminary)

Assets (Millions)	Value	% of Fund	Policy %
MainePERS Portfolio	\$ 18,521	100.0%	100.0%
Domestic Equity	\$ 3,077	16.6%	18.1%
International Equity	\$ 1,967	10.6%	11.9%
Fixed Income	\$ 2,358	12.7%	15.0%
Alternative Credit	\$ 1,545	8.3%	10.0%
Infrastructure	\$ 2,068	11.2%	10.0%
Natural Resources	\$ 951	5.1%	5.0%
Private Equity	\$ 3,569	19.3%	12.5%
Real Estate	\$ 1,953	10.5%	10.0%
Risk Diversifiers	\$ 1,008	5.4%	7.5%
Cash	\$ 24	0.1%	0.0%

Portfolio weights for most asset classes remain near MainePERS Investment Policy asset allocation weights.

Private equity remains overweight at ~19% of Fund value, and private markets assets in aggregate comprise 54% of the overall portfolio, above the 47.5% policy weight.

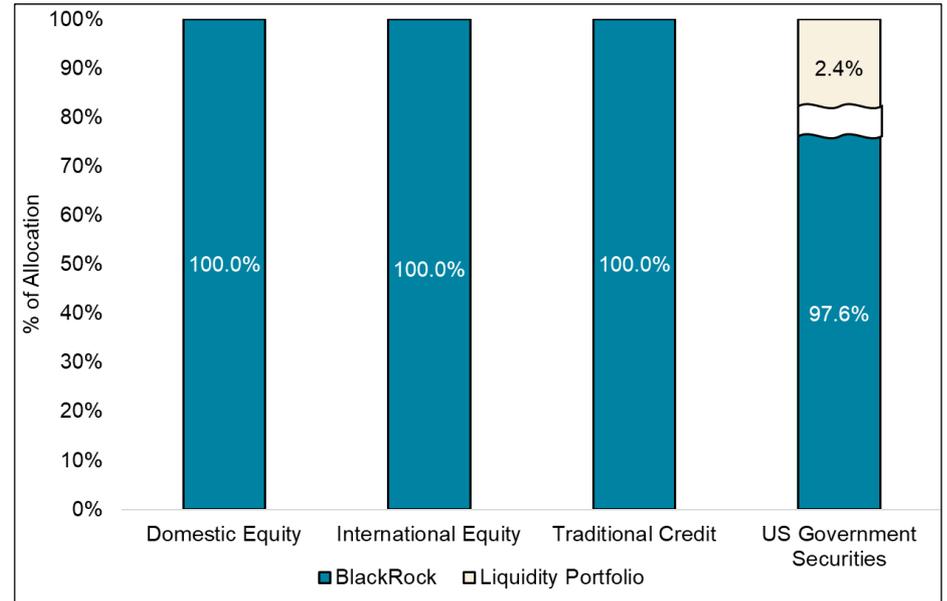
January 2023 Asset Allocation (Preliminary)



Public Securities: Liquidity Portfolio

At the end of January, 0.2% of Fund assets were invested via ETFs and futures contracts in an account managed by Parametric Associates.

The Liquidity Portfolio accounts for 0.5% of MainePERS' total exposure to public securities.



MainePERS Liquidity Portfolio	Market Value (Millions)	Exposure Type
Parametric Domestic Equity	\$0.0	Futures
Parametric International Equity	\$0.0	Futures
Parametric Traditional Credit	\$0.3	ETFs
Parametric US Government Securities	\$37.2	Futures
Total Liquidity Portfolio	\$37.5	

Derivatives and Leverage

MainePERS has **exposure to derivatives** in the following areas:

- Public Equities, Public Fixed Income, and Risk Diversifiers

MainePERS has **financial leverage** (borrowing and investing) in the following areas:

- BlackRock – Financial leverage in securities lending
- JP Morgan – Financial leverage in securities lending
- Alternative Credit
- Infrastructure
- Natural Resources
- Private Equity
- Real Estate

Investment Related Fees: January 2023

Description	FYTD 23	FY 22	FY 21	FY 20	FY 19
Investment Mgmt. Fees	\$71,696,405	\$119,200,558	\$118,561,261	\$124,480,394	\$106,398,871
Securities Lending Fees ¹	559,869	1,744,317	1,653,172	2,239,396	2,226,826
Consulting Fees	670,000	1,120,000	1,120,000	1,120,000	1,120,000
Broker Commissions ²	63,936	30,833	52,364	37,461	28,970
Placement Agent Fees	0	0	0	0	0
Total	\$72,990,210	\$122,095,708	\$121,386,797	\$127,877,251	\$109,774,667
Percentage of Fund ³	0.68%	0.66%	0.67%	0.87%	0.74%

1. Securities Lending Fees are through 12/31/2022
2. Actual paid commissions reported by JP Morgan
3. Annualized estimated total fees divided by the current Fund value for FYTD 23. The prior years' calculations are actual fees divided by the June 30 market value of that year.

Securities Lending: December 2022

	Average Lendable Assets	Average Assets On Loan	Total Sec Lending Revenue	Revenue Split	MainePERS Net Income	MainePERS Net Income, FYTD
BlackRock						
Fixed Income	\$1,891,517,108	\$1,485,092,930	\$99,135	60%/40%	\$59,481	\$439,290
Total Equity	\$1,765,272,160	\$213,572,597	\$111,001	60%/40%	\$73,096	\$454,738
Total Blackrock	\$3,656,789,268	\$1,698,665,527	\$210,136		\$132,577	\$894,028
JP Morgan						
Domestic Equities	\$2,787,228,289	\$144,028,926	\$36,180	85%/15%	\$30,760	\$237,007
Total JP Morgan	\$2,787,228,289	\$144,028,926	\$36,180		\$30,760	\$237,007
Total	\$6,444,017,557	\$1,842,694,453	\$246,316		\$163,337	\$1,131,035
Total Annualized Securities Lending Income, FY 2023:				\$2,262,072 (0.01%, or 1.2 bps)		
Total Actual Securities Lending Income, FY 2022:				\$3,118,726 (0.02%, or 1.7 bps)		

Liquidity Schedule: January 2023

Term	Market Value	Percent of Portfolio
Liquid ¹	\$7,427m	40.1%
Semi-Liquid ²	\$2,362m	12.8%
Illiquid ³	\$8,732m	47.1%
Total	\$18,521m	100.0%

<u>Sources and Uses of Liquidity</u>		
	Last 12 Months Actual	Next 12 Months Projection
Private Markets Activity		
Capital Contributions	-\$1,447m	-\$860m
Distributions	\$1,362m	\$1,800m
Net Private Markets Activity	-\$86m	\$940m
Benefit Payments	-\$315m	-\$420m
Net Cash Flows	-\$401m	\$520m

¹Liquid assets includes public equities and public fixed income

²Semi-liquid assets includes risk diversifiers, open-end real estate investments, and listed alternative credit funds

³Illiquid assets includes closed-end alternative credit, infrastructure, natural resources, private equity, and real estate funds

MainePERS Alternative Investments Summary

<i>as of 01/31/2023</i>	# of Funds	# of GP Relationships
Alternative Credit	23	13
Infrastructure	34	11
Natural Resources	15	10
Private Equity	121	33
Real Estate	32	18
Risk Diversifiers	9	7
Total*	234	83

*GP Total may not add due to overlapping relationships

Currently, MainePERS is invested in 234 funds,
and has 83 distinct manager relationships.

MainePERS Alternative Investments Summary

<i>(in \$millions)</i> as of 01/31/2023	<u>Current Market Value</u>			<u>Unfunded Commitment</u>	
	Dollars	% of Fund	Policy %*	Dollars	% of Fund
Alternative Credit	\$ 1,545	8.3%	10.0%	\$ 667	3.6%
Infrastructure	\$ 2,068	11.2%	10.0%	\$ 752	4.1%
Natural Resources	\$ 951	5.1%	5.0%	\$ 197	1.1%
Private Equity	\$ 3,569	19.3%	12.5%	\$ 1,140	6.2%
Real Estate	\$ 1,953	10.5%	10.0%	\$ 540	2.9%
Risk Diversifiers	\$ 1,008	5.4%	7.5%	\$ 80	0.4%
Total Alternatives	\$ 11,094	59.9%	55.0%	\$ 3,376	18.2%

For more details please see Private Markets Investment Summary at <http://www.maineper.org/Investments/>

*Investment Policy weights approved by the Board of Trustees effective May 2022

Note: Market values shown above are preliminary estimates. Private market asset values are based on 9/30/2022 values, adjusted for subsequent cash flows.

<i>(in \$millions)</i> as of 01/31/2023	<u>Private Market Commitments by Vintage Year</u>				<u>3-Year</u>
	2020	2021	2022	2023	Average ¹
Alternative Credit	\$ 275	\$ 410	\$ 550	\$ -	\$ 412
Infrastructure	\$ 235	\$ 180	\$ 200	\$ -	\$ 205
Natural Resources	\$ -	\$ -	\$ 30	\$ -	\$ 10
Private Equity	\$ 276	\$ 438	\$ 268	\$ -	\$ 327
Real Estate	\$ 80	\$ 285	\$ 180	\$ -	\$ 182
Total Commitments	\$ 866	\$ 1,313	\$ 1,228	\$ -	\$ 1,136

¹13-Year Average: 2020-2022

MainePERS Private Market Investments Summary: 09/30/2022

Asset Class Summary	Commitment (A)	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Alternative Credit	\$ 2,124,630	\$ 1,567,050	\$ 511,628	\$ 1,279,511	\$ 1,791,140	6.6%
Infrastructure	\$ 3,326,658	\$ 3,144,736	\$ 2,545,812	\$ 2,000,496	\$ 4,546,308	11.4%
Natural Resources	\$ 1,020,500	\$ 1,054,564	\$ 420,095	\$ 955,752	\$ 1,375,847	7.1%
Private Equity	\$ 4,785,520	\$ 4,486,370	\$ 3,741,218	\$ 3,532,474	\$ 7,273,692	16.6%
Real Estate	\$ 2,738,550	\$ 2,515,759	\$ 1,835,023	\$ 1,933,789	\$ 3,768,812	7.8%
Total	\$ 13,995,858	\$ 12,768,479	\$ 9,053,777	\$ 9,702,022	\$ 18,755,798	11.0%

Note: This Asset Class Summary table includes all private market investments: both fund investments and co-investments.

Co-Investment Summary	Commitment (A)	# of Co- Investments	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Alternative Credit Co-Investments	\$ 223,700	31	\$ 210,172	\$ 64,038	\$ 166,649	\$ 230,687	8.1%
Infrastructure Co-Investments	\$ 204,717	10	\$ 204,605	\$ 197,727	\$ 147,763	\$ 345,490	13.8%
Natural Resources Co-Investments	\$ 32,500	2	\$ 31,155	\$ -	\$ 43,797	\$ 43,797	11.3%
Private Equity Co-Investments	\$ 365,795	31	\$ 363,116	\$ 308,788	\$ 269,355	\$ 578,142	15.4%
Real Estate Co-Investments	\$ 65,776	5	\$ 57,478	\$ 5,160	\$ 56,655	\$ 61,816	3.4%
Total	\$ 892,488	79	\$ 866,527	\$ 575,713	\$ 684,219	\$ 1,259,932	13.7%

Note: This table contains values for the co-investment portion of the private market portfolio.

MainePERS Private Market Investments Summary: 09/30/2022

Alternative Credit

Fund Name	Commitment (A)	Date of Commitment	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Angelo Gordon Direct Lending Fund II	\$ 25,000	3/31/2020	\$ 23,749	\$ 19,507	\$ 12,665	\$ 32,172	19.5%
Angelo Gordon Direct Lending Fund III	\$ 100,000	7/20/2018	\$ 100,918	\$ 59,455	\$ 74,573	\$ 134,028	10.9%
Participation Agreement #1	\$ 7,500	10/11/2019	\$ 7,463	\$ 1,494	\$ 7,265	\$ 8,759	7.9%
Participation Agreement #2	\$ 5,000	10/11/2019	\$ 4,994	\$ 5,422	\$ -	\$ 5,422	8.8%
Participation Agreement #3	\$ 5,000	10/11/2019	\$ 5,000	\$ 5,700	\$ -	\$ 5,700	7.3%
Participation Agreement #4	\$ 10,000	10/18/2019	\$ 9,915	\$ 1,528	\$ 9,629	\$ 11,157	7.5%
Participation Agreement #5	\$ 5,000	12/6/2019	\$ 5,000	\$ 1,788	\$ 4,261	\$ 6,049	8.4%
Participation Agreement #6	\$ 10,000	12/6/2019	\$ 9,991	\$ 1,402	\$ 9,793	\$ 11,195	8.1%
Participation Agreement #7	\$ 5,000	12/11/2019	\$ 5,000	\$ 1,298	\$ 4,654	\$ 5,952	7.2%
Participation Agreement #8	\$ 5,000	8/13/2020	\$ 4,914	\$ 845	\$ 4,806	\$ 5,651	7.3%
Participation Agreement #9	\$ 7,500	4/9/2021	\$ 7,425	\$ 804	\$ 7,379	\$ 8,183	NM
Participation Agreement #10	\$ 5,000	4/20/2021	\$ 5,007	\$ 756	\$ 4,779	\$ 5,535	NM
Participation Agreement #11	\$ 5,000	5/5/2021	\$ 5,000	\$ 502	\$ 4,875	\$ 5,377	NM
Angelo Gordon Direct Lending Fund IV	\$ 100,000	1/24/2020	\$ 85,000	\$ 6,681	\$ 92,870	\$ 99,551	12.4%
Participation Agreement #1	\$ 5,000	10/23/2020	\$ 4,913	\$ 1,192	\$ 4,397	\$ 5,588	NM
Participation Agreement #2	\$ 12,500	8/17/2021	\$ 12,295	\$ 768	\$ 12,305	\$ 13,072	NM
Participation Agreement #3	\$ 7,500	10/5/2021	\$ 7,500	\$ 7,913	\$ -	\$ 7,913	NM
Participation Agreement #4	\$ 5,000	12/21/2021	\$ 4,925	\$ 338	\$ 4,904	\$ 5,242	NM
Participation Agreement #5	\$ 5,000	12/21/2021	\$ 4,925	\$ 315	\$ 4,906	\$ 5,222	NM
Participation Agreement #6	\$ 5,000	1/12/2022	\$ 4,925	\$ 305	\$ 4,895	\$ 5,200	NM
Participation Agreement #7	\$ 7,500	1/12/2022	\$ 7,388	\$ 460	\$ 7,322	\$ 7,783	NM
Participation Agreement #8	\$ 12,500	6/16/2022	\$ 12,406	\$ 334	\$ 12,313	\$ 12,647	NM
Angelo Gordon Direct Lending Fund IV Annex	\$ 50,000	11/18/2021	\$ 40,000	\$ 472	\$ 41,199	\$ 41,671	NM
Angelo Gordon Direct Lending Fund V	\$ 125,000	8/3/2022	\$ 25,000	\$ -	\$ 25,750	\$ 25,750	NM
Participation Agreement #1	\$ 7,500	9/1/2022	\$ 7,388	\$ -	\$ 7,350	\$ 7,350	NM
Ares Capital Europe IV	\$ 122,000	4/30/2018	\$ 96,949	\$ 20,608	\$ 80,084	\$ 100,692	1.4%
Ares Capital Europe V	\$ 122,000	9/4/2020	\$ 68,037	\$ 1,609	\$ 62,409	\$ 64,017	-8.1%
Ares Senior Direct Lending Fund II	\$ 100,000	12/10/2021	\$ 28,181	\$ 1,453	\$ 28,756	\$ 30,209	NM
Audax Senior Debt (MP), LLC	\$ 100,000	6/30/2017	\$ 100,000	\$ -	\$ 124,412	\$ 124,412	4.7%
Brookfield Infrastructure Debt Fund III	\$ 100,000	7/15/2022	\$ -	\$ -	\$ -	\$ -	NM
Comvest Credit Partners VI	\$ 125,000	5/20/2022	\$ 12,500	\$ -	\$ 12,696	\$ 12,696	NM
Deerpath Capital VI	\$ 75,000	9/30/2021	\$ 54,590	\$ 2,265	\$ 55,639	\$ 57,904	NM
Global Infrastructure Partners Spectrum	\$ 100,000	2/20/2019	\$ 69,397	\$ 18,279	\$ 54,972	\$ 73,252	7.0%
Mesa West Core Lending Fund	\$ 100,000	6/18/2013	\$ 120,723	\$ 55,165	\$ 121,737	\$ 176,902	6.5%

MainePERS Private Market Investments Summary: 09/30/2022

Alternative Credit

Fund Name	Commitment (A)	Date of Commitment	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Owl Rock Capital Corporation	\$ 100,000	3/10/2017	\$ 100,000	\$ 25,025	\$ 79,863	\$ 104,888	1.2%
Participation Agreement #1	\$ 5,000	5/7/2018	\$ 4,851	\$ 5,499	\$ -	\$ 5,499	12.7%
Participation Agreement #2	\$ 6,185	7/31/2018	\$ 6,196	\$ 7,745	\$ -	\$ 7,745	9.9%
Participation Agreement #3	\$ 5,000	8/7/2018	\$ 4,938	\$ 5,634	\$ -	\$ 5,634	7.9%
Participation Agreement #4	\$ 5,000	8/20/2018	\$ 4,566	\$ 5,835	\$ -	\$ 5,835	8.1%
Participation Agreement #5	\$ 5,000	12/21/2018	\$ 4,827	\$ 1,382	\$ 4,499	\$ 5,882	6.3%
Participation Agreement #6	\$ 7,500	8/7/2020	\$ 8,905	\$ 2,837	\$ 7,354	\$ 10,191	8.7%
Participation Agreement #7	\$ 7,500	7/26/2021	\$ 6,565	\$ 603	\$ 6,550	\$ 7,154	NM
Participation Agreement #8	\$ 12,500	6/17/2022	\$ 10,768	\$ 510	\$ 10,423	\$ 10,933	NM
Participation Agreement #9	\$ 7,500	9/26/2022	\$ 7,388	\$ 4	\$ 7,500	\$ 7,504	NM
Owl Rock Capital Corporation III	\$ 100,000	6/19/2020	\$ 109,230	\$ 9,230	\$ 110,225	\$ 119,455	7.7%
Pathlight Capital Fund II	\$ 75,000	4/22/2021	\$ 99,653	\$ 43,296	\$ 61,754	\$ 105,050	NM
Participation Agreement #1	\$ 7,500	4/1/2022	\$ 7,368	\$ 624	\$ 7,051	\$ 7,675	NM
Participation Agreement #2	\$ 7,500	4/1/2022	\$ 7,429	\$ 202	\$ 7,437	\$ 7,639	NM
Pathlight Capital Fund III	\$ 75,000	6/24/2022	\$ 6,974	\$ -	\$ 6,956	\$ 6,956	NM
Solar Capital Private Corporate Lending Fund	\$ 50,000	6/26/2019	\$ 37,663	\$ 4,838	\$ 39,426	\$ 44,264	14.2%
Solar Capital Debt Fund	\$ 50,000	6/26/2019	\$ 19,608	\$ 1,022	\$ 21,317	\$ 22,340	NM
Silver Point Specialty Credit II	\$ 50,000	1/31/2020	\$ 57,821	\$ 22,404	\$ 39,748	\$ 62,152	8.5%
Tennenbaum Direct Lending VIII	\$ 100,000	11/30/2017	\$ 100,883	\$ 75,755	\$ 45,674	\$ 121,430	6.3%

MainePERS Private Market Investments Summary: 09/30/2022

Infrastructure

Fund Name	Commitment		Amount	Total	Current	Total Value (C+D)	Interim Net IRR
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Market Value (D)		
Alinda Infrastructure Fund II	\$ 50,000	9/17/2009	\$ 67,889	\$ 64,449	\$ 9,389	\$ 73,839	1.9%
ArcLight Energy V	\$ 75,000	10/28/2011	\$ 76,031	\$ 103,624	\$ -	\$ 103,624	8.0%
Shore Co-Investment Holdings II	\$ 20,000	1/30/2014	\$ 17,709	\$ 19,737	\$ -	\$ 19,737	8.4%
ArcLight Energy VI	\$ 150,000	11/25/2014	\$ 159,687	\$ 110,673	\$ 80,197	\$ 190,870	4.6%
Great River Hydro Partners	\$ 12,000	6/17/2017	\$ 10,718	\$ 8,639	\$ 34,972	\$ 43,611	41.3%
Brookfield Infrastructure Fund II	\$ 100,000	6/28/2013	\$ 116,095	\$ 101,011	\$ 87,212	\$ 188,223	9.7%
Brookfield Infrastructure Fund III	\$ 100,000	4/15/2016	\$ 97,688	\$ 45,985	\$ 93,155	\$ 139,140	11.3%
Co-Investment #1	\$ 20,000	3/31/2017	\$ 15,946	\$ 18,660	\$ 16,682	\$ 35,342	28.1%
Carlyle Global Infrastructure Opportunity Fund	\$ 100,000	5/1/2019	\$ 77,977	\$ 15,659	\$ 71,641	\$ 87,300	9.5%
Carlyle Infrastructure Partners	\$ 50,000	11/2/2007	\$ 57,366	\$ 64,289	\$ 385	\$ 64,674	2.5%
Carlyle Power Partners II	\$ 50,000	11/19/2015	\$ 62,167	\$ 29,156	\$ 58,154	\$ 87,310	11.3%
Cube Infrastructure	\$ 45,000	4/16/2010	\$ 60,063	\$ 96,104	\$ 991	\$ 97,094	8.0%
Cube Infrastructure II	\$ 90,000	9/11/2018	\$ 73,467	\$ 3,927	\$ 70,994	\$ 74,921	0.7%
Cube Infrastructure III	\$ 90,000	8/16/2021	\$ 21,749	\$ -	\$ 18,251	\$ 18,251	NM
EQT Infrastructure III	\$ 68,000	12/3/2016	\$ 93,959	\$ 127,522	\$ 36,025	\$ 163,547	20.6%
EQT Infrastructure IV	\$ 100,000	12/17/2018	\$ 89,882	\$ 16,802	\$ 92,291	\$ 109,093	10.2%
EQT Infrastructure V	\$ 75,000	12/8/2020	\$ 39,509	\$ 5,815	\$ 33,293	\$ 39,108	NM
First Reserve Energy Infrastructure Fund	\$ 50,000	6/30/2010	\$ 59,778	\$ 51,856	\$ 5,550	\$ 57,406	-1.1%
First Reserve Energy Infrastructure Fund II	\$ 100,000	10/21/2013	\$ 127,554	\$ 125,899	\$ 36,771	\$ 162,670	15.3%
Global Infrastructure Partners Sonic	\$ 30,000	7/31/2020	\$ 31,578	\$ -	\$ 20,058	\$ 20,058	-19.5%
Global Infrastructure Partners	\$ 75,000	3/31/2008	\$ 101,173	\$ 205,062	\$ 699	\$ 205,761	17.2%
Global Infrastructure Partners II	\$ 75,000	12/3/2011	\$ 104,834	\$ 143,741	\$ 35,595	\$ 179,336	15.9%
Global Infrastructure Partners III	\$ 150,000	4/15/2016	\$ 168,586	\$ 70,589	\$ 164,180	\$ 234,769	10.4%
Co-Investment #1	\$ 29,000	2/28/2017	\$ 27,420	\$ 15,870	\$ 26,189	\$ 42,059	10.8%
Co-Investment #2	\$ 25,000	8/16/2018	\$ 26,736	\$ 2,697	\$ 13,374	\$ 16,071	-13.3%
Global Infrastructure Partners IV	\$ 150,000	12/21/2018	\$ 105,960	\$ 8,456	\$ 100,824	\$ 109,280	3.9%
IFM Global Infrastructure (US), L.P.	\$ 100,000	12/20/2012	\$ 144,550	\$ 208,040	\$ -	\$ 208,040	9.8%
KKR Diversified Core Infrastructure Fund	\$ 100,000	4/29/2022	\$ -	\$ -	\$ -	\$ -	NM
KKR Global Infrastructure Investors	\$ 75,000	9/29/2010	\$ 87,917	\$ 154,068	\$ 22	\$ 154,089	13.1%
KKR Global Infrastructure Investors II	\$ 150,000	10/24/2014	\$ 183,287	\$ 227,444	\$ 79,319	\$ 306,763	16.8%

(all dollar amounts in thousands)

MainePERS Private Market Investments Summary: 09/30/2022

Infrastructure

Fund Name	Commitment		Amount	Total	Current	Total Value (C+D)	Interim Net IRR
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Market Value (D)		
KKR Atlanta Co-Invest	\$ 24,000	9/26/2014	\$ 21,428	\$ 28,551	\$ -	\$ 28,551	5.7%
KKR Taurus Co-Invest II	\$ 25,000	8/15/2017	\$ 25,000	\$ 42,906	\$ 12,321	\$ 55,227	20.8%
KKR Byzantium Infrastructure Aggregator	\$ 15,000	10/17/2017	\$ 15,000	\$ 7,013	\$ 9,039	\$ 16,052	2.0%
KKR Global Infrastructure Investors III	\$ 100,000	3/29/2018	\$ 86,745	\$ 21,423	\$ 77,953	\$ 99,376	8.0%
Meridiam Infrastructure (SCA)	\$ 11,000	9/23/2015	\$ 21,938	\$ 9,765	\$ 24,022	\$ 33,788	7.6%
Meridiam Infrastructure Europe II (SCA)	\$ 22,500	9/23/2015	\$ 27,380	\$ 14,269	\$ 30,404	\$ 44,673	9.9%
Meridiam Infrastructure Europe III SLP	\$ 95,000	4/27/2016	\$ 69,465	\$ 13,144	\$ 53,294	\$ 66,438	-2.0%
Meridiam Sustainable Infrastructure Europe IV	\$ 90,000	4/16/2021	\$ 9,952	\$ 4	\$ 6,811	\$ 6,815	NM
Meridiam Infrastructure N.A. II	\$ 75,000	9/28/2012	\$ 88,232	\$ 31,084	\$ 168,236	\$ 199,320	17.7%
MINA II CIP	\$ 175	6/30/2015	\$ 169	\$ 29	\$ 18,952	\$ 18,981	130.2%
Meridiam Infrastructure N.A. II	\$ 20,000	6/30/2015	\$ 18,870	\$ 4,342	\$ 43,105	\$ 47,447	25.1%
Meridiam Infrastructure N.A. III	\$ 50,000	7/12/2017	\$ 21,323	\$ 1	\$ 27,864	\$ 27,864	NM
Stonepeak Infrastructure Partners II	\$ 140,000	11/12/2015	\$ 188,508	\$ 224,022	\$ 45,390	\$ 269,412	13.5%
Stonepeak Claremont Co-Invest	\$ 25,000	5/30/2017	\$ 25,000	\$ 51,938	\$ 11	\$ 51,949	17.8%
Stonepeak Spear (Co-Invest) Holdings	\$ 25,000	1/8/2018	\$ 19,648	\$ 1,717	\$ 35,175	\$ 36,893	15.0%
Stonepeak Infrastructure Partners III	\$ 150,000	10/13/2017	\$ 146,855	\$ 44,138	\$ 183,232	\$ 227,370	19.8%
Stonepeak Infrastructure Partners IV	\$ 125,000	5/8/2020	\$ 51,465	\$ 5,582	\$ 48,554	\$ 54,137	NM

MainePERS Private Market Investments Summary: 09/30/2022

Natural Resources

Fund Name	Commitment (A)	Date of Commitment	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
ACM Permanent Crops	\$ 35,000	10/24/2014	\$ 39,100	\$ 10,375	\$ 60,972	\$ 71,347	10.5%
ACM Permanent Crops II	\$ 35,000	5/12/2016	\$ 41,072	\$ 8,885	\$ 23,961	\$ 32,846	-7.2%
AMERRA Agri Fund III	\$ 50,000	2/11/2016	\$ 96,259	\$ 75,911	\$ 24,519	\$ 100,430	1.8%
Denham Mining Fund	\$ 35,000	6/29/2018	\$ 26,701	\$ 659	\$ 32,454	\$ 33,113	8.8%
Homestead Capital Farmland II	\$ 50,000	8/8/2016	\$ 54,272	\$ 9,540	\$ 52,958	\$ 62,499	4.4%
Homestead Capital Farmland III	\$ 30,000	10/26/2018	\$ 21,254	\$ 2,014	\$ 20,785	\$ 22,799	5.9%
Orion Mine Finance Fund II	\$ 50,000	5/25/2016	\$ 100,914	\$ 74,178	\$ 45,846	\$ 120,024	8.6%
Orion Mine Finance Co-Fund II	\$ 20,000	8/13/2018	\$ 20,098	\$ -	\$ 32,005	\$ 32,005	12.5%
Silver Creek Aggregate Reserves Fund	\$ 100,000	11/6/2018	\$ 15,206	\$ 1,975	\$ 16,039	\$ 18,014	NM
Sprott Private Resource Lending Fund III	\$ 30,000	8/31/2022	\$ -	\$ -	\$ -	\$ -	NM
Taurus Mining Fund	\$ 50,000	3/27/2015	\$ 41,459	\$ 45,420	\$ 4,441	\$ 49,862	7.5%
Taurus Mining Fund Annex	\$ 23,000	12/1/2016	\$ 18,312	\$ 23,073	\$ 1,127	\$ 24,200	17.9%
Taurus Mining Fund No. 2	\$ 75,000	4/18/2019	\$ 60,794	\$ 43,153	\$ 29,768	\$ 72,921	23.3%
Teays River Integrated Agriculture	\$ 200,000	7/1/2015	\$ 198,982	\$ 28,770	\$ 344,874	\$ 373,644	9.7%
Twin Creeks Timber	\$ 125,000	1/7/2016	\$ 199,068	\$ 84,577	\$ 125,643	\$ 210,220	1.6%
U.S. Farming Realty Trust III	\$ 100,000	7/7/2015	\$ 110,017	\$ 11,565	\$ 128,567	\$ 140,132	5.6%
Canally Coinvest Holdings	\$ 12,500	12/9/2019	\$ 11,057	\$ -	\$ 11,792	\$ 11,792	4.1%

MainePERS Private Market Investments Summary: 09/30/2022

Private Equity

Fund Name	Commitment		Amount	Total	Current Market	Total Value	Interim Net
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Value (D)	(C+D)	IRR
ABRY Advanced Securities Fund II	\$ 20,000	5/4/2011	\$ 20,530	\$ 29,628	\$ 466	\$ 30,094	13.1%
ABRY Advanced Securities Fund III	\$ 30,000	4/30/2014	\$ 44,186	\$ 19,942	\$ 22,489	\$ 42,431	-1.3%
ABRY Heritage Partners	\$ 10,000	5/31/2016	\$ 10,696	\$ 10,879	\$ 6,873	\$ 17,752	26.4%
ABRY Partners VII	\$ 10,000	4/29/2011	\$ 12,930	\$ 17,293	\$ 2,300	\$ 19,594	12.4%
ABRY Partners VIII	\$ 20,000	8/8/2014	\$ 23,838	\$ 29,614	\$ 4,101	\$ 33,715	10.4%
ABRY Senior Equity IV	\$ 10,000	12/7/2012	\$ 10,819	\$ 16,620	\$ 1,670	\$ 18,290	15.1%
ABRY Senior Equity V	\$ 12,050	1/19/2017	\$ 12,716	\$ 5,090	\$ 13,379	\$ 18,469	17.8%
Advent International GPE VII	\$ 30,000	6/29/2012	\$ 34,811	\$ 52,335	\$ 6,179	\$ 58,514	13.7%
Advent International GPE VIII	\$ 50,000	2/5/2016	\$ 55,594	\$ 42,125	\$ 58,747	\$ 100,871	18.5%
Advent International GPE IX	\$ 50,000	5/9/2019	\$ 43,504	\$ 3,998	\$ 63,171	\$ 67,169	34.2%
GPE IX TKE Co-Investment	\$ 24,000	3/30/2020	\$ 21,243	\$ -	\$ 21,560	\$ 21,560	0.7%
Advent International GPE X	\$ 45,000	4/28/2022	\$ 1,575	\$ -	\$ 1,307	\$ 1,307	NM
Advent Latin America PE Fund VI	\$ 20,000	10/17/2014	\$ 19,516	\$ 10,750	\$ 21,460	\$ 32,210	15.9%
Affinity Asia Pacific Fund IV	\$ 60,000	2/28/2013	\$ 64,493	\$ 68,021	\$ 28,223	\$ 96,244	13.5%
Affinity Asia Pacific Fund V	\$ 40,000	12/11/2017	\$ 17,107	\$ 3,848	\$ 16,351	\$ 20,199	NM
Bain Capital Ventures 2021	\$ 25,000	10/28/2020	\$ 16,188	\$ 1	\$ 18,574	\$ 18,575	NM
Bain Capital Ventures 2022	\$ 25,000	6/10/2022	\$ -	\$ -	\$ -	\$ -	NM
Bain Capital Venture Coinvestment Fund III	\$ 15,000	4/1/2021	\$ 11,775	\$ -	\$ 13,824	\$ 13,824	NM
Bain Capital Venture Coinvestment Fund IV	\$ 15,000	6/10/2022	\$ -	\$ -	\$ -	\$ -	NM
Berkshire Fund VIII	\$ 15,000	7/20/2011	\$ 16,795	\$ 25,469	\$ 11,534	\$ 37,003	17.4%
Berkshire Fund IX	\$ 50,000	3/18/2016	\$ 53,980	\$ 30,233	\$ 57,273	\$ 87,507	18.6%
Blackstone Capital Partners VI	\$ 30,000	6/30/2010	\$ 37,416	\$ 49,187	\$ 12,691	\$ 61,878	12.3%
Blackstone Capital Partners VII	\$ 54,000	3/27/2015	\$ 59,357	\$ 30,675	\$ 56,740	\$ 87,415	13.8%
Carlyle Asia Partners III	\$ 15,000	12/31/2009	\$ 20,408	\$ 29,734	\$ 1,083	\$ 30,817	12.6%
Carlyle Asia Partners IV	\$ 60,000	6/3/2014	\$ 78,184	\$ 89,341	\$ 32,249	\$ 121,590	12.5%
Carlyle Asia Partners V	\$ 45,000	10/30/2017	\$ 31,927	\$ 10,304	\$ 26,242	\$ 36,546	10.8%
Centerbridge Capital Partners III	\$ 30,000	10/24/2014	\$ 46,842	\$ 41,967	\$ 32,305	\$ 74,272	19.8%
CB Blizzard Co-Invest	\$ 10,000	9/11/2019	\$ 15,684	\$ 10,053	\$ 1,084	\$ 11,137	-47.7%
Charterhouse Capital Partners VIII	\$ 13,500	1/6/2011	\$ 11,188	\$ 14,160	\$ -	\$ 14,160	7.9%
Charterhouse Capital Partners IX	\$ 4,500	1/6/2011	\$ 5,373	\$ 7,091	\$ 163	\$ 7,254	12.0%
Charterhouse Capital Partners X	\$ 67,000	5/13/2015	\$ 53,928	\$ 40,175	\$ 48,699	\$ 88,875	18.5%

(all dollar amounts in thousands)

MainePERS Private Market Investments Summary: 09/30/2022

Private Equity

Fund Name	Commitment		Amount	Total	Current Market	Total Value	Interim Net
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Value (D)	(C+D)	IRR
Charterhouse Acrostone	\$ 12,000	8/24/2018	\$ 13,254	\$ 21,268	\$ 7	\$ 21,275	16.9%
Charterhouse Capital Partners XI	\$ 45,000	4/23/2021	\$ 0	\$ -	\$ 1,172	\$ 1,172	NM
CVC Capital Partners VI	\$ 67,000	7/12/2013	\$ 95,013	\$ 92,336	\$ 71,282	\$ 163,618	16.6%
CVC Capital Partners VII	\$ 48,000	5/9/2017	\$ 69,198	\$ 32,398	\$ 59,476	\$ 91,874	20.4%
CVC Capital Partners VIII	\$ 44,000	6/11/2020	\$ 30,312	\$ 16,060	\$ 14,605	\$ 30,665	4.2%
EnCap Energy Capital VIII	\$ 30,000	1/31/2011	\$ 34,181	\$ 21,598	\$ 13,482	\$ 35,080	0.6%
EnCap Energy Capital Fund VIII Co-Investors, L.P.	\$ 16,238	12/8/2011	\$ 16,500	\$ 5,268	\$ 7,129	\$ 12,396	-4.2%
EnCap Energy Capital Fund IX	\$ 30,000	12/19/2012	\$ 34,541	\$ 35,293	\$ 12,970	\$ 48,263	9.9%
EnCap Energy Capital Fund X	\$ 40,000	3/5/2015	\$ 41,465	\$ 34,051	\$ 40,196	\$ 74,246	15.7%
EnCap Energy Capital Fund XI	\$ 40,000	5/31/2017	\$ 34,643	\$ 8,927	\$ 39,092	\$ 48,019	18.8%
EnCap Flatrock Midstream Fund III	\$ 20,000	4/9/2014	\$ 25,082	\$ 17,460	\$ 15,351	\$ 32,811	10.0%
EnCap Flatrock Midstream Fund IV	\$ 22,000	11/17/2017	\$ 17,968	\$ 7,339	\$ 13,463	\$ 20,802	8.6%
General Catalyst X - Early Venture	\$ 19,565	3/26/2020	\$ 18,391	\$ -	\$ 36,453	\$ 36,453	52.3%
General Catalyst X - Endurance	\$ 22,826	3/26/2020	\$ 22,859	\$ -	\$ 25,093	\$ 25,093	5.9%
General Catalyst X - Growth Venture	\$ 32,609	3/26/2020	\$ 31,467	\$ -	\$ 45,540	\$ 45,540	24.7%
General Catalyst XI - Creation	\$ 8,823	10/29/2021	\$ 2,143	\$ -	\$ 2,470	\$ 2,470	NM
General Catalyst XI - Endurance	\$ 29,412	10/29/2021	\$ 16,842	\$ -	\$ 16,085	\$ 16,085	NM
General Catalyst XI - Ignition	\$ 11,765	10/29/2021	\$ 5,914	\$ -	\$ 5,779	\$ 5,779	NM
GTCR Fund X	\$ 30,000	1/28/2011	\$ 31,766	\$ 64,445	\$ 189	\$ 64,634	21.4%
GTCR Fund XI	\$ 35,000	11/15/2013	\$ 34,196	\$ 67,178	\$ 52,607	\$ 119,785	35.9%
GTCR Fund XII	\$ 50,000	9/29/2017	\$ 51,223	\$ 31,746	\$ 53,774	\$ 85,520	29.5%
Co-Investment #1	\$ 5,238	4/26/2019	\$ 4,556	\$ -	\$ 8,714	\$ 8,714	21.1%
Co-Investment #2	\$ 5,997	11/1/2019	\$ 5,806	\$ 10,935	\$ 3,056	\$ 13,991	50.3%
GTCR XIII	\$ 50,000	10/27/2020	\$ 18,325	\$ 1,809	\$ 21,718	\$ 23,527	NM
H.I.G. Bayside Loan Fund II	\$ 25,000	5/28/2010	\$ 24,192	\$ 29,602	\$ 1,992	\$ 31,593	6.5%
H.I.G. Bayside Loan Ops Fund III (Europe)	\$ 30,000	7/27/2012	\$ 26,707	\$ 31,070	\$ 3,973	\$ 35,043	7.7%
H.I.G. Brazil & Latin America Partners	\$ 60,000	7/1/2015	\$ 64,605	\$ 19,264	\$ 76,805	\$ 96,069	15.8%
H.I.G. Capital Partners V	\$ 15,000	2/28/2013	\$ 18,922	\$ 22,498	\$ 14,530	\$ 37,028	23.7%
H.I.G. Europe Capital Partners II	\$ 22,500	7/1/2013	\$ 25,240	\$ 20,667	\$ 13,127	\$ 33,794	10.8%
H.I.G. Growth Buyouts & Equity Fund II	\$ 17,500	6/30/2011	\$ 22,235	\$ 24,210	\$ 15,497	\$ 39,707	15.0%
H.I.G. Growth Buyouts & Equity Fund III	\$ 35,000	9/13/2018	\$ 11,852	\$ -	\$ 11,956	\$ 11,956	NM

MainePERS Private Market Investments Summary: 09/30/2022

Private Equity

Fund Name	Commitment		Amount	Total	Current Market	Total Value	Interim Net
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Value (D)	(C+D)	IRR
H.I.G Middle Market LBO Fund II	\$ 40,000	2/7/2014	\$ 47,563	\$ 63,274	\$ 28,365	\$ 91,638	29.5%
Co-Investment #1	\$ 9,000	10/12/2017	\$ 9,000	\$ -	\$ 1,547	\$ 1,547	-29.8%
Co-Investment #2	\$ 686	6/19/2020	\$ 686	\$ -	\$ 851	\$ 851	9.9%
Co-Investment #3	\$ 1,000	6/1/2021	\$ 1,079	\$ -	\$ 1,249	\$ 1,249	NM
H.I.G. Middle Market LBO Fund III	\$ 40,000	7/23/2019	\$ 31,544	\$ 1,587	\$ 34,632	\$ 36,219	24.9%
Hellman & Friedman Capital Partners VII	\$ 30,000	6/19/2009	\$ 44,344	\$ 105,630	\$ 5,781	\$ 111,411	24.7%
Hellman & Friedman Capital Partners VIII	\$ 45,000	9/24/2014	\$ 48,468	\$ 26,428	\$ 55,544	\$ 81,973	15.4%
Hellman & Friedman Capital Partners IX	\$ 45,000	9/28/2018	\$ 44,078	\$ 1,069	\$ 51,276	\$ 52,345	10.5%
Hellman & Friedman Capital Partners X	\$ 45,000	5/10/2021	\$ 24,529	\$ -	\$ 22,076	\$ 22,076	NM
Inflexion Buyout Fund IV	\$ 27,000	9/30/2014	\$ 33,724	\$ 34,364	\$ 19,552	\$ 53,916	13.8%
Inflexion Partnership Capital Fund I	\$ 17,000	9/30/2014	\$ 23,954	\$ 31,196	\$ 10,144	\$ 41,341	20.8%
Inflexion Supplemental Fund IV	\$ 10,000	5/31/2016	\$ 14,839	\$ 20,923	\$ 6,250	\$ 27,173	23.3%
Kelso Investment Associates VIII	\$ 3,000	1/6/2011	\$ 3,022	\$ 4,263	\$ 147	\$ 4,409	8.2%
Kelso Investment Associates IX	\$ 60,000	11/5/2014	\$ 70,003	\$ 86,281	\$ 31,134	\$ 117,416	20.1%
KIA IX (Hammer) Investor	\$ 25,000	8/12/2016	\$ 25,426	\$ 69,298	\$ 211	\$ 69,508	21.4%
Kelso Investment Associates X	\$ 45,000	3/16/2018	\$ 42,497	\$ 12,961	\$ 63,633	\$ 76,595	41.9%
Kelso Investment Associates XI	\$ 45,000	12/22/2021	\$ 2,567	\$ 67	\$ 3,304	\$ 3,372	NM
Kelso XI Heights Co-Investment	\$ 12,000	8/19/2022	\$ 10,000	\$ -	\$ 9,997	\$ 9,997	NM
KKR North American Fund XI	\$ 60,000	2/7/2012	\$ 98,069	\$ 164,323	\$ 21,797	\$ 186,120	19.7%
KKR North America Fund XI (Platinum)	\$ 8,003	2/26/2016	\$ 8,040	\$ 2,313	\$ 5,252	\$ 7,565	-1.4%
KKR Element Co-Invest	\$ 10,000	8/29/2016	\$ 10,050	\$ 24,030	\$ -	\$ 24,030	23.5%
KKR Americas XII	\$ 60,000	3/3/2016	\$ 60,426	\$ 22,564	\$ 75,932	\$ 98,497	21.4%
KKR Sigma Aggregator	\$ 15,000	6/22/2018	\$ 15,000	\$ -	\$ 19,347	\$ 19,347	6.1%
KKR Enterprise Co-Invest	\$ 15,000	10/11/2018	\$ 15,000	\$ -	\$ -	\$ -	-100.0%
KKR Enterprise Co-Invest AIV A	\$ 8,936	11/8/2019	\$ 8,936	\$ 7,243	\$ 3,670	\$ 10,914	20.1%
KKR North America XIII	\$ 40,000	6/25/2021	\$ 8,860	\$ -	\$ 8,274	\$ 8,274	NM
KKR Special Situations Fund	\$ 60,000	12/19/2012	\$ 118,957	\$ 97,434	\$ 11,696	\$ 109,130	-3.2%
KKR Special Situations Fund II	\$ 60,000	12/19/2014	\$ 98,005	\$ 76,185	\$ 27,874	\$ 104,060	2.6%
Oaktree Opportunities VIII	\$ 30,000	12/9/2009	\$ 30,000	\$ 43,849	\$ 237	\$ 44,085	9.1%
ONCAP IV	\$ 15,000	11/8/2016	\$ 12,917	\$ 2,725	\$ 17,400	\$ 20,125	15.8%
Onex Partners III	\$ 10,000	1/6/2011	\$ 11,181	\$ 16,832	\$ 1,788	\$ 18,620	13.2%

(all dollar amounts in thousands)

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Private Equity

Fund Name	Commitment		Amount	Total	Current Market	Total Value	Interim Net
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Value (D)	(C+D)	IRR
Onex Partners IV	\$ 60,000	11/22/2013	\$ 62,871	\$ 50,076	\$ 37,592	\$ 87,668	8.1%
Co-Investment #1	\$ 10,000	2/27/2017	\$ 10,471	\$ 1,235	\$ 9,781	\$ 11,016	1.0%
Onex Partners V	\$ 45,000	7/11/2017	\$ 39,000	\$ 4,667	\$ 41,151	\$ 45,818	13.6%
Paine & Partners Capital Fund IV	\$ 60,000	12/18/2014	\$ 53,400	\$ 29,070	\$ 48,082	\$ 77,152	9.3%
Wawona Co-Investment Fund I	\$ 15,000	3/31/2017	\$ 15,012	\$ -	\$ 7,978	\$ 7,978	-10.9%
Lyons Magnus Co-Investment Fund I	\$ 15,000	11/8/2017	\$ 15,000	\$ -	\$ 35,107	\$ 35,107	19.0%
PSP Maverick Co-Invest	\$ 7,238	9/12/2019	\$ 7,254	\$ -	\$ 13,332	\$ 13,332	22.1%
PSP AH&N Co-Investment Fund	\$ 19,724	11/27/2019	\$ 17,539	\$ -	\$ 31,347	\$ 31,347	24.6%
Paine Schwartz Food Chain Fund V	\$ 45,000	8/3/2018	\$ 40,922	\$ 12,976	\$ 41,474	\$ 54,450	31.0%
SNFL Co-Investment Fund	\$ 10,000	10/11/2019	\$ 5,024	\$ 265	\$ 7,187	\$ 7,452	14.3%
Rhone Partners V	\$ 56,000	3/12/2015	\$ 70,790	\$ 32,777	\$ 74,551	\$ 107,329	15.1%
Riverside Capital Appreciation Fund VI	\$ 60,000	7/3/2013	\$ 61,710	\$ 79,808	\$ 16,537	\$ 96,345	12.0%
RCAF VI CIV XXXII	\$ 12,399	10/21/2015	\$ 12,687	\$ 35,260	\$ -	\$ 35,260	19.9%
Riverside Micro-Cap Fund III	\$ 35,000	6/30/2014	\$ 49,448	\$ 183,115	\$ 68,005	\$ 251,120	38.1%
Riverside Micro-Cap Fund IV	\$ 60,000	10/23/2015	\$ 55,659	\$ -	\$ 99,884	\$ 99,884	12.9%
Riverside Micro-Cap Fund IV-B	\$ 20,000	8/9/2019	\$ 24,292	\$ 5,583	\$ 33,838	\$ 39,422	29.3%
Riverside Micro-Cap Fund V	\$ 40,000	8/21/2018	\$ 30,673	\$ -	\$ 45,354	\$ 45,354	22.6%
Riverside Micro-Cap Fund VI	\$ 45,000	8/26/2021	\$ 2,989	\$ -	\$ 2,691	\$ 2,691	NM
Shoreview Capital Partners III	\$ 24,000	7/24/2013	\$ 25,134	\$ 28,438	\$ 24,580	\$ 53,018	19.6%
Shoreview Capital Partners IV	\$ 30,000	6/3/2019	\$ 10,422	\$ 5,768	\$ 9,421	\$ 15,189	NM
Sovereign Capital IV	\$ 46,500	7/7/2014	\$ 40,344	\$ 21,967	\$ 33,200	\$ 55,168	9.4%
Summit Partners Credit II	\$ 60,000	10/25/2013	\$ 90,550	\$ 84,158	\$ 22,704	\$ 106,862	6.5%
Summit Europe Growth Equity III	\$ 22,000	3/18/2020	\$ 12,304	\$ -	\$ 10,713	\$ 10,713	-15.4%
Summit Growth Equity VIII	\$ 25,000	5/27/2011	\$ 33,302	\$ 62,156	\$ 16,314	\$ 78,470	27.3%
Co-Investment #1	\$ 16,000	6/3/2015	\$ 16,000	\$ 38,735	\$ 16,654	\$ 55,390	32.0%
Summit Growth Equity IX	\$ 60,000	8/26/2015	\$ 83,052	\$ 88,968	\$ 90,167	\$ 179,134	35.5%
Co-Investment #1	\$ 15,000	11/29/2016	\$ 14,895	\$ 41,104	\$ -	\$ 41,104	159.6%
Summit Partners Co-Invest (Ironman)	\$ 15,000	4/20/2018	\$ 15,001	\$ -	\$ 17,903	\$ 17,903	4.2%
Summit Partners Co-Invest (Giants-B)	\$ 15,000	10/22/2019	\$ 15,000	\$ 41,780	\$ 5,244	\$ 47,024	83.4%
Summit Growth Equity X	\$ 60,000	2/26/2019	\$ 57,752	\$ 13,804	\$ 57,151	\$ 70,955	20.0%
Summit Partners Co-Invest (Lions)	\$ 7,534	10/14/2020	\$ 7,534	\$ -	\$ 12,400	\$ 12,400	NM

(all dollar amounts in thousands)

MainePERS Private Market Investments Summary: 09/30/2022

Private Equity

Fund Name	Commitment		Amount	Total	Current Market	Total Value	Interim Net
	(A)	Date of Commitment	Contributed (B)	Distributions (C)	Value (D)	(C+D)	IRR
Summit Partners Co-Invest (Indigo)	\$ 10,000	12/11/2020	\$ 11,432	\$ -	\$ 11,423	\$ 11,423	NM
Summit Growth Equity XI	\$ 45,000	10/1/2021	\$ 2,925	\$ -	\$ 2,561	\$ 2,561	NM
Summit Venture Capital III	\$ 13,150	5/27/2011	\$ 18,044	\$ 32,899	\$ 2,555	\$ 35,455	17.6%
Summit Venture Capital IV	\$ 40,000	8/26/2015	\$ 50,011	\$ 48,377	\$ 60,390	\$ 108,767	42.9%
Summit Venture Capital V	\$ 45,000	6/16/2020	\$ 19,245	\$ 773	\$ 17,768	\$ 18,540	NM
Summit Partners Co-Invest (CS)	\$ 12,000	10/22/2021	\$ 12,007	\$ -	\$ 9,669	\$ 9,669	NM
Technology Crossover Ventures VIII	\$ 60,000	5/8/2013	\$ 52,307	\$ 39,509	\$ 58,212	\$ 97,722	10.6%
Technology Crossover Ventures IX	\$ 60,000	2/19/2016	\$ 48,428	\$ 46,154	\$ 47,674	\$ 93,827	20.6%
TCV Sports	\$ 8,000	9/25/2018	\$ 8,000	\$ -	\$ 7,712	\$ 7,712	-0.9%
Technology Crossover Ventures X	\$ 45,000	8/31/2018	\$ 33,774	\$ -	\$ 63,110	\$ 63,110	28.2%
Technology Crossover Ventures XI	\$ 45,000	10/2/2020	\$ 19,087	\$ -	\$ 17,910	\$ 17,910	NM
Technology Impact Fund	\$ 40,000	12/18/2017	\$ 35,377	\$ 22,270	\$ 81,527	\$ 103,797	55.6%
Technology Impact Fund II	\$ 40,000	4/13/2021	\$ 9,115	\$ -	\$ 10,004	\$ 10,004	NM
Technology Impact Growth Fund	\$ 40,000	11/26/2018	\$ 47,650	\$ 26,676	\$ 32,540	\$ 59,216	12.6%
Technology Impact Growth Fund II	\$ 40,000	8/6/2021	\$ 7,508	\$ -	\$ 6,403	\$ 6,403	NM
Thoma Bravo Fund XI	\$ 50,000	5/1/2014	\$ 70,928	\$ 128,508	\$ 56,313	\$ 184,820	26.6%
Thoma Bravo Fund XII	\$ 60,000	4/27/2016	\$ 75,782	\$ 61,856	\$ 75,868	\$ 137,725	16.6%
Thoma Bravo Fund XIII	\$ 45,000	12/7/2018	\$ 59,671	\$ 31,856	\$ 62,970	\$ 94,826	32.1%
Thoma Bravo Special Opportunities Fund II	\$ 15,000	3/27/2015	\$ 18,113	\$ 21,091	\$ 14,237	\$ 35,328	16.2%
Thoma Bravo Discover Fund IV	\$ 45,000	7/1/2022	\$ -	\$ -	\$ -	\$ -	NM
Tillridge Global Agribusiness Partners II	\$ 50,000	10/21/2016	\$ 28,093	\$ 125	\$ 25,407	\$ 25,532	-4.1%
Water Street Healthcare Partners III	\$ 25,000	7/25/2012	\$ 29,786	\$ 77,121	\$ 7,563	\$ 84,684	35.3%
Water Street Healthcare Partners IV	\$ 33,000	9/15/2017	\$ 32,093	\$ 10,624	\$ 27,738	\$ 38,361	9.0%
Water Street Healthcare Partners V	\$ 43,000	4/15/2022	\$ 891	\$ -	\$ 500	\$ 500	NM
Wayzata Opportunities Fund III	\$ 30,000	9/11/2012	\$ 14,718	\$ 10,063	\$ 4,639	\$ 14,702	NM
Wynnchurch Capital Partners IV	\$ 40,000	10/23/2014	\$ 38,047	\$ 35,402	\$ 55,237	\$ 90,640	27.6%
Wynnchurch Capital Partners V	\$ 40,000	1/15/2020	\$ 19,194	\$ -	\$ 24,982	\$ 24,982	NM

MainePERS Private Market Investments Summary: 09/30/2022

Real Estate

Fund Name	Commitment (A)	Date of Commitment	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Angelo Gordon Net Lease IV	\$ 50,000	2/17/2020	\$ 32,474	\$ 1,446	\$ 34,543	\$ 35,989	7.5%
Angelo Gordon Realty Fund XI	\$ 50,000	3/31/2022	\$ -	\$ -	\$ -	\$ -	NM
Bain Capital Real Estate II	\$ 50,000	3/5/2021	\$ 18,221	\$ 2,365	\$ 19,767	\$ 22,132	NM
Blackrock Granite Property Fund	\$ 63,791	9/30/2006	\$ 68,771	\$ 53,312	\$ -	\$ 53,312	-4.9%
Blackstone Property Partners	\$ 350,000	6/29/2017	\$ 350,000	\$ 34,551	\$ 465,110	\$ 499,661	9.6%
Blackstone Real Estate Partners VII	\$ 75,000	2/26/2012	\$ 104,190	\$ 154,517	\$ 17,155	\$ 171,672	15.3%
Blackstone Real Estate Partners VIII	\$ 50,000	3/27/2015	\$ 63,106	\$ 64,056	\$ 40,872	\$ 104,927	17.5%
Blackstone Real Estate Partners IX	\$ 40,000	12/21/2018	\$ 41,599	\$ 14,160	\$ 45,553	\$ 59,713	33.7%
Barings Asia Real Estate II	\$ 50,000	7/31/2018	\$ 21,041	\$ -	\$ 17,508	\$ 17,508	NM
EQT Real Estate II	\$ 55,000	4/26/2019	\$ 24,224	\$ 4,956	\$ 19,568	\$ 24,524	NM
EQT Real Estate Rock Co-Investment	\$ 11,000	8/10/2020	\$ 8,811	\$ -	\$ 10,028	\$ 10,028	8.7%
H/2 Credit Partners, L.P.	\$ 75,000	6/21/2011	\$ 75,000	\$ 112,177	\$ -	\$ 112,177	5.9%
Harrison Street Core Property Fund, L.P.	\$ 75,000	4/30/2012	\$ 94,990	\$ 49,197	\$ 136,736	\$ 185,933	9.1%
HSRE-Coyote Maine PERS Core Co-Investment	\$ 20,000	12/4/2020	\$ 14,124	\$ 281	\$ 17,820	\$ 18,100	NM
High Street Real Estate Fund IV, L.P.	\$ 25,000	8/23/2013	\$ 24,717	\$ 34,157	\$ -	\$ 34,157	14.7%
High Street Real Estate Fund V	\$ 25,000	7/24/2015	\$ 24,925	\$ 36,045	\$ -	\$ 36,045	13.2%
High Street Real Estate Fund VI	\$ 25,000	3/22/2019	\$ 25,000	\$ 2,887	\$ 30,487	\$ 33,375	16.7%
HSREF VI Elgin Co-Invest	\$ 10,000	4/9/2021	\$ 10,000	\$ 720	\$ 12,588	\$ 13,308	NM
High Street Real Estate Fund VII	\$ 35,000	8/16/2021	\$ 17,680	\$ -	\$ 16,844	\$ 16,844	NM
Hines US Property Partners	\$ 200,000	9/9/2021	\$ 80,612	\$ 9,052	\$ 80,504	\$ 89,557	NM
Invesco Real Estate Asia IV	\$ 30,000	3/25/2020	\$ 20,369	\$ 10,069	\$ 9,798	\$ 19,867	-5.9%
Invesco US Income Fund	\$ 195,000	7/17/2014	\$ 215,629	\$ 56,906	\$ 346,246	\$ 403,152	13.2%
IPI Data Center Partners I	\$ 30,000	12/15/2017	\$ 31,814	\$ 17,393	\$ 36,904	\$ 54,297	21.9%
IPI Data Center Partners II	\$ 25,000	12/20/2019	\$ 13,142	\$ 1,619	\$ 11,160	\$ 12,779	-3.7%
JPMCB Strategic Property Fund	\$ 130,000	11/15/2005	\$ 186,941	\$ 297,519	\$ -	\$ 297,519	5.8%
KKR Real Estate Partners Europe I	\$ 50,000	12/2/2015	\$ 51,781	\$ 44,298	\$ 22,978	\$ 67,276	10.2%
KKR Real Estate Partners Europe II	\$ 25,000	12/23/2019	\$ 17,617	\$ 4,250	\$ 15,607	\$ 19,857	16.6%
KKR Real Estate Partners Americas I	\$ 50,000	12/20/2013	\$ 49,888	\$ 59,370	\$ 2,460	\$ 61,830	11.1%
KKR Real Estate Partners Americas II	\$ 50,000	6/2/2016	\$ 58,396	\$ 67,320	\$ 17,921	\$ 85,241	24.4%
Northbridge-Strategic Fund II	\$ 30,000	2/8/2019	\$ 30,000	\$ 3,074	\$ 39,087	\$ 42,161	10.3%
Prima Mortgage Investment Trust, LLC	\$ 75,000	7/29/2011	\$ 97,490	\$ 131,918	\$ -	\$ 131,918	3.8%
Principal Life Insurance Company U.S. Property	\$ 60,000	5/20/2005	\$ 60,000	\$ 125,410	\$ -	\$ 125,410	6.2%
PRISA	\$ 90,000	6/30/2005	\$ 139,622	\$ 222,450	\$ -	\$ 222,450	5.3%

(all dollar amounts in thousands)

MainePERS Private Market Investments Summary: 09/30/2022

Real Estate

Fund Name	Commitment (A)	Date of Commitment	Amount Contributed (B)	Total Distributions (C)	Current Market Value (D)	Total Value (C+D)	Interim Net IRR
Rubenstein Properties Fund III	\$ 30,000	10/23/2015	\$ 30,606	\$ 627	\$ 27,575	\$ 28,202	-2.1%
LCC Co-Investor B	\$ 15,000	10/18/2019	\$ 14,917	\$ -	\$ 11,569	\$ 11,569	-9.5%
Rubenstein Properties Fund IV	\$ 25,000	4/16/2019	\$ 5,700	\$ 56	\$ 4,219	\$ 4,275	NM
Prudential Senior Housing Fund V	\$ 50,000	3/17/2015	\$ 41,333	\$ 5,453	\$ 53,647	\$ 59,100	7.6%
Smart Markets Fund, L.P.	\$ 195,000	6/17/2013	\$ 170,307	\$ 62,448	\$ 288,125	\$ 350,573	11.1%
Stonelake Opportunity Partners VII	\$ 40,000	6/30/2022	\$ 0	\$ -	\$ (561)	\$ (561)	NM
Walton Street Real Estate Fund VII	\$ 50,000	5/9/2012	\$ 43,990	\$ 49,882	\$ 11,989	\$ 61,871	9.8%
Walton Street Real Estate Fund VIII	\$ 50,000	10/23/2015	\$ 42,685	\$ 29,649	\$ 29,130	\$ 58,780	11.0%
Co-Investment #1	\$ 10,000	9/27/2017	\$ 9,626	\$ 4,160	\$ 4,650	\$ 8,810	-2.7%
Westbrook Real Estate Fund IX	\$ 15,000	6/30/2014	\$ 17,390	\$ 17,500	\$ 3,112	\$ 20,612	6.3%
Westbrook Real Estate Fund X	\$ 50,000	1/15/2015	\$ 48,514	\$ 42,649	\$ 18,711	\$ 61,360	11.0%
Westbrook Real Estate Fund XI	\$ 40,000	1/31/2019	\$ 18,517	\$ 7,125	\$ 14,378	\$ 21,503	NM

MainePERS Private Market Investments Summary: 09/30/2022

Notes: NM = Not Meaningful. MainePERS only reports IRRs for funds with more than 24 months of history and for which Amount Contributed is greater than 50% of Commitments. "Date of Commitment" is not the date of first capital draw. The "IRR" presented uses interim estimates and may not be indicative of ultimate performance of partnership investments due to a number of factors including lags in valuation, maturity of fund, and differences in investment pace and strategy of various funds. Performance figures should not be used to compare returns among multiple funds or different limited partners. Private market investments are long-term investments which are expected to generate returns over the course of their entire life cycle of 10 or more years. Common industry practice dictates that any performance analysis on these funds while they are still in the early years of their investment cycle would not generate meaningful results. The Interim Net IRR figures presented in this table are based on cash flow information provided by the general partner. The above information was not prepared, reviewed, or approved by any of the partnerships, general partners, or their affiliates and may differ from those generated by the general partner or other limited partners due to differences in timing of investments, disposal of in-kind distributions, and accounting and valuation policies.

MAINEPERS

BOARD OF TRUSTEES INVESTMENTS MEMORANDUM

TO: BOARD MEMBERS
FROM: JAMES BENNETT, CHIEF INVESTMENT OFFICER
SUBJECT: QUARTERLY REBALANCING ACTIVITY REPORT
DATE: FEBRUARY 2, 2023

This memo summarizes rebalancing activity undertaken through the fourth quarter of calendar year 2022.

POLICY REFERENCE

[Board Policy 2.1 – Investment Policy Statement](#)

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communication and Support to the Board](#)

PUBLIC MARKETS REBALANCING

Rebalancing activity within the public markets portfolio during calendar year 2022 is shown below.

Month	Asset Class			Note
	Public Equity	Traditional Credit	US Government	
January	-	-\$78 million	-	Raising Cash
February	-\$100 million	-\$75 million	-	Raising Cash
March	-\$50 million	-\$50 million	-	Raising Cash
April	-	-	-	No Activity
May	-	-	-	No Activity
June	\$40 million	-\$80 million	\$40 million	Rebalancing
July	\$80 million	-\$80 million	\$80 million	Rebalancing & Reinvesting Cash
August	\$155 million	-\$140 million	\$310 million	Rebalancing & Reinvesting Cash
September	-	-	-	No Activity
October	-	-	-	No Activity
November	-	-	-\$125 million	Raising Cash
December	-\$100 million	-	-	Raising Cash
Full Year Activity (Net)	\$25 million	-\$503 million	\$305 million	

RISK DIVERSIFIERS REBALANCING

At the July 14, 2022 Board meeting, the Trustees authorized the Investment Team to rebalance across existing managers and strategies within the System's Risk Diversifiers portfolio, consistent with the goal of maintaining diversification within the allocation. The summary below details investment activity and rebalancing actions within the Risk Diversifiers portfolio during the third and fourth quarter of 2022.

Third Quarter 2022

1. ***Fort Global Contrarian Fund*** - Partial redemption of \$75 million in July in order to rightsize the allocation within the Risk Diversifiers portfolio.
2. ***Bridgewater Pure Alpha Fund*** - Partial redemption of \$50 million in July in order to rightsize the allocation within the Risk Diversifiers portfolio.
3. ***Bridgewater Pure Alpha Fund*** - Partial redemption of \$75 million in July in order to rightsize the allocation within the Risk Diversifiers portfolio.
4. ***Windham Risk Regime*** - Full redemption of \$163.4 million in July. Investment recommendation was approved at the July Board meeting.
5. ***Hudson Bay Fund*** - New investment of \$100 million in September. Investment recommendation was approved at the August Board meeting.

Fourth Quarter 2022

6. ***Aspect Core Trend HV Fund*** - Partial redemption of \$20 million in October in order to rightsize the allocation within the Risk Diversifiers portfolio.
7. ***Farallon Capital Institutional Partners*** - New investment of \$100 million at year end following investment recommendation approval at the October Board meeting.

MainePERS Dashboard as of December 31, 2022

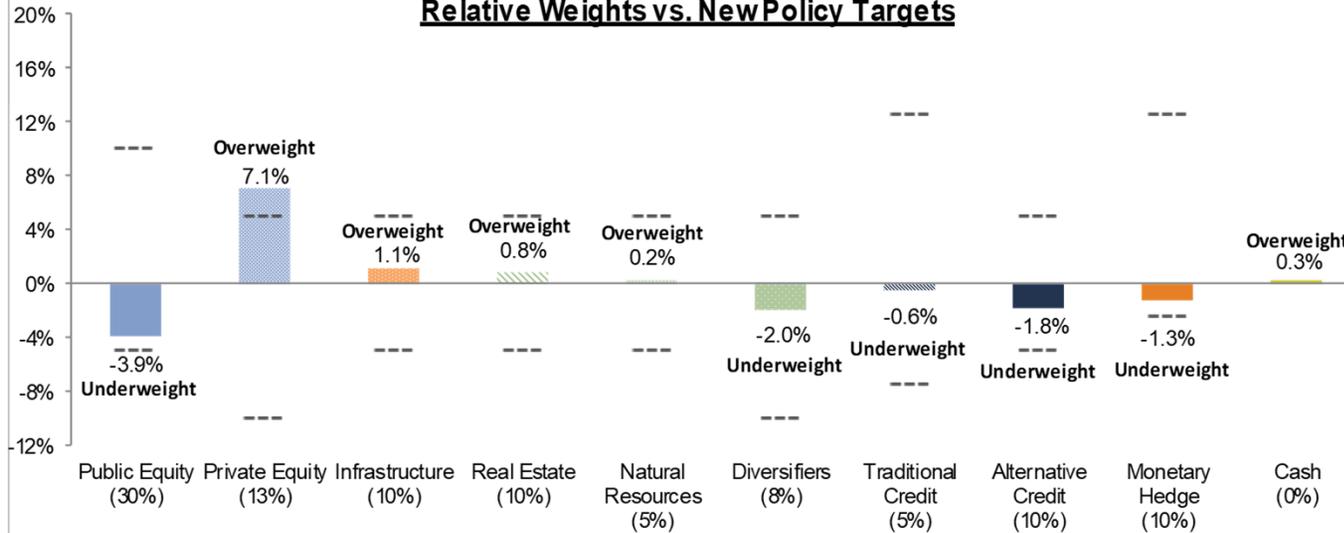
Summary Portfolio Observations

- The MainePERS total portfolio market value at the end of Q4 2022 was \$18,170.3 million. The portfolio returned 3.2% in the quarter ended December 31, 2022, with relative outperformance primarily driven by Infrastructure and Alternative Credit. Over the past five years, the portfolio has generated annualized returns of 7.9%.

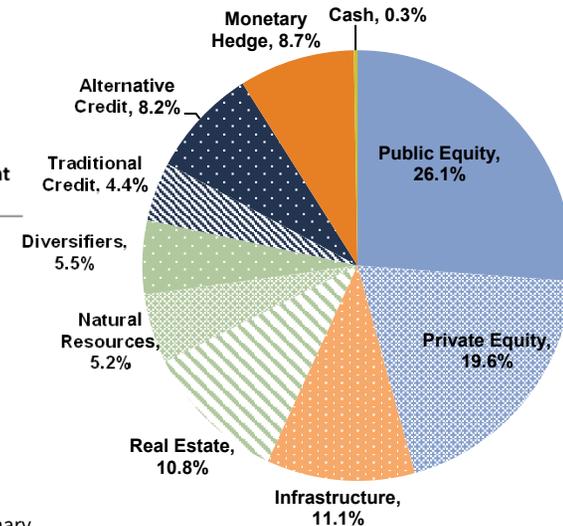
Total Fund Performance (12/31/2022)

	Q4 2022	Tr. 1 Year	Tr. 3 Year	Tr. 5 Year
Total Fund Composite	3.2	-4.0	8.2	7.9
MainePERS Policy Index	3.4	-6.4	6.5	6.6
Value Add	-0.2	2.3	1.7	1.3

Relative Weights vs. New Policy Targets



Asset Allocation





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MAINEPERS

FOURTH QUARTER 2022 PERFORMANCE REVIEW



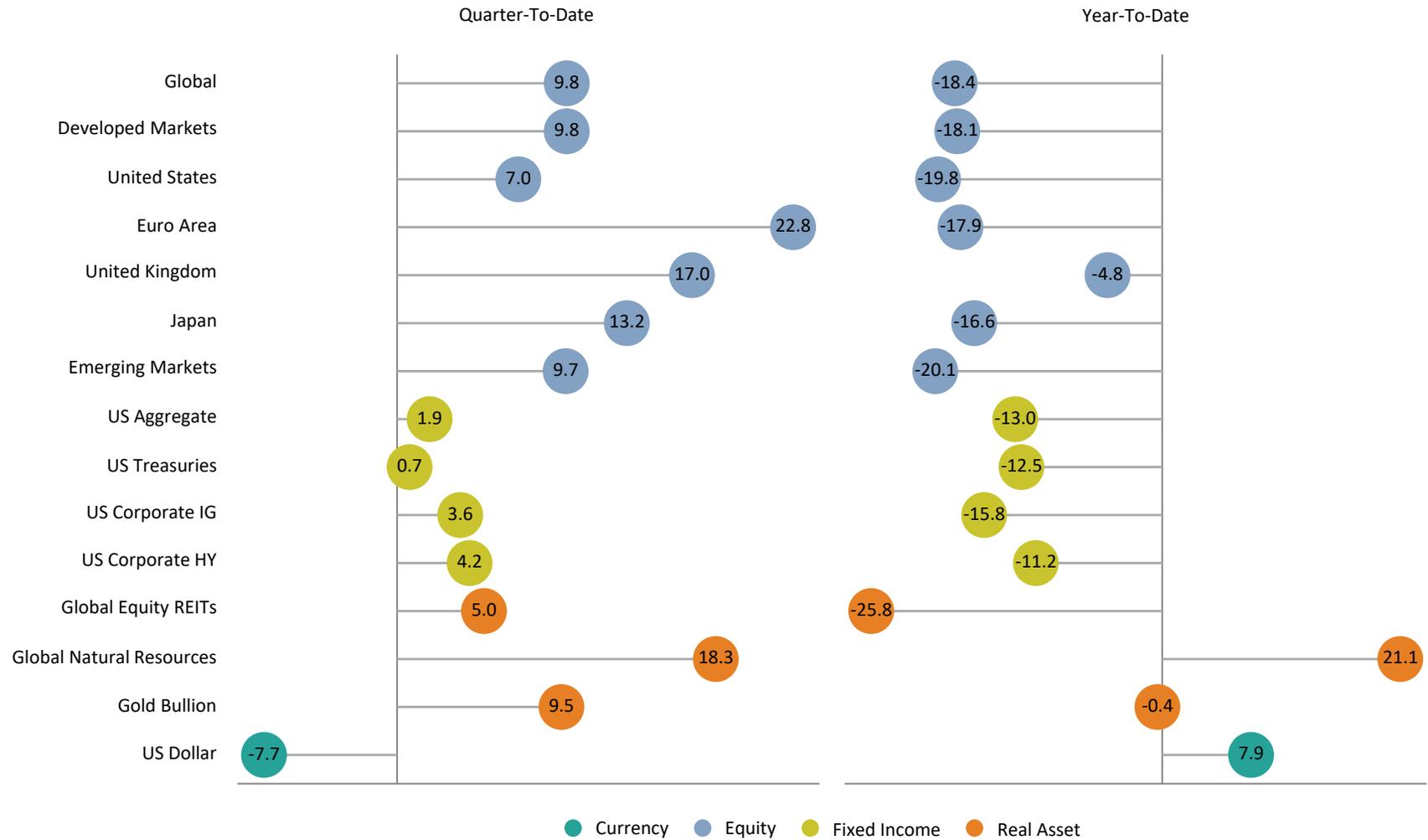
MARKET UPDATE



Weaker inflation data, less hawkish central banks, and China reopening lifted markets in 4Q

GLOBAL ASSET CLASS PERFORMANCE

As of December 31, 2022 • US Dollar • Percent (%)

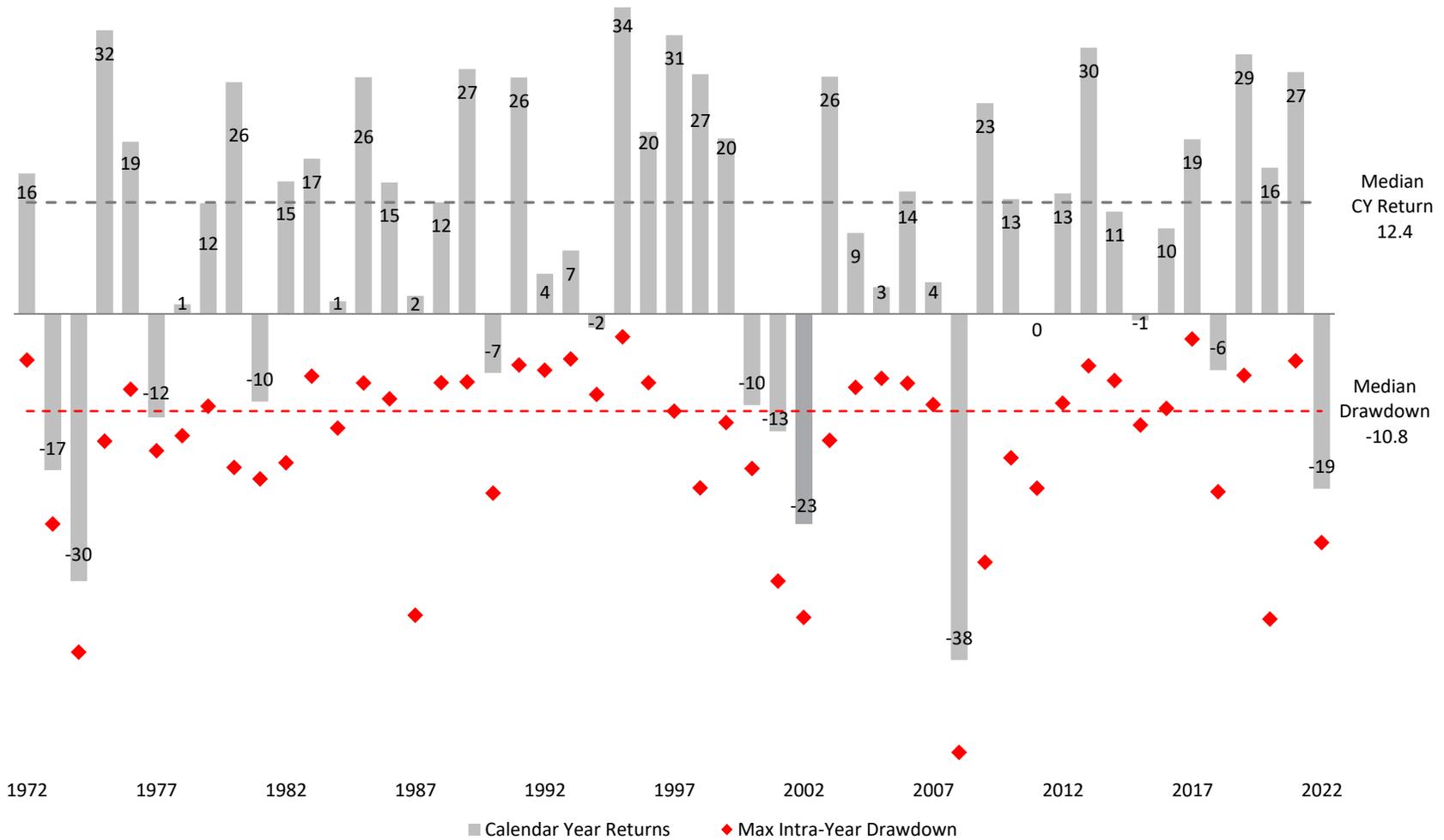


Sources: Bloomberg Index Services Limited, MSCI Inc., and Thomson Reuters Datastream. MSCI data provided "as is" without any express or implied warranties. Notes: All data are in US Dollar terms. The equity data are total returns net of dividend taxes of MSCI indexes. The fixed income data are total returns of Bloomberg Barclays indexes. The MSCI Global Equity REIT Index, the MSCI ACWI Commodity Producers Index, and front-month gold contracts as traded on the New York Mercantile Exchange are used to calculate real asset performances. The US Dollar Index (DXY) is used to calculate US Dollar performances.

Back-to-back negative calendar-year returns for equities are rare

CALENDAR YEAR RETURNS VS INTRA-YEAR DRAWDOWNS FOR US EQUITIES (S&P 500 INDEX)

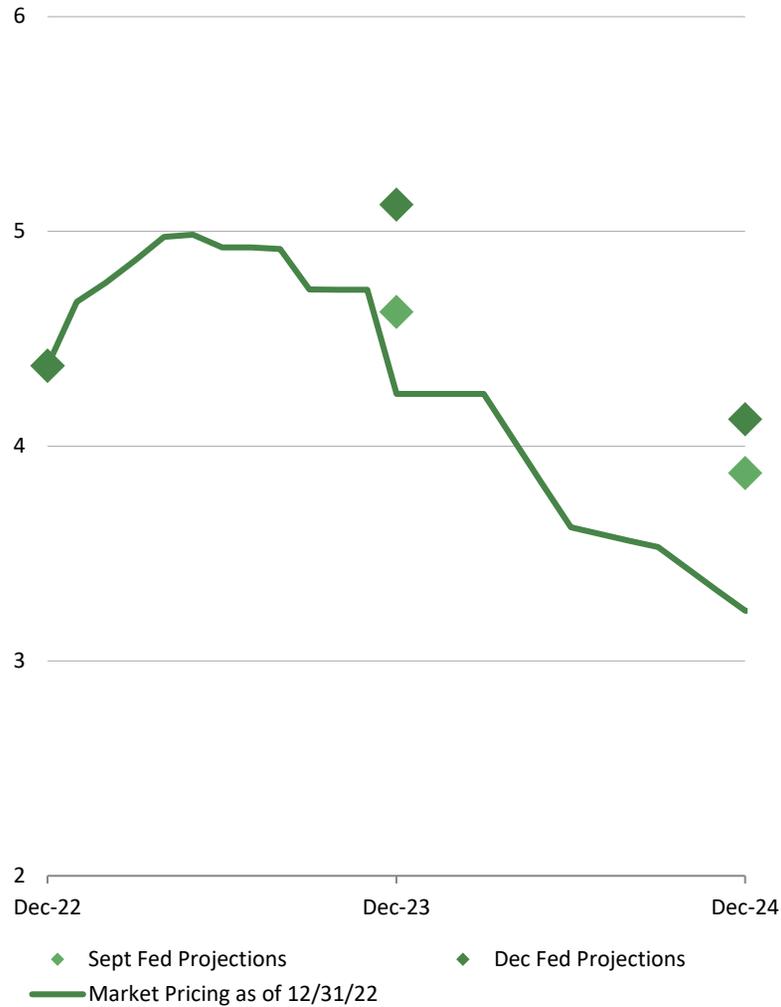
1972–2022 • Price Return in USD (%)



Central banks started to dial back tightening in December

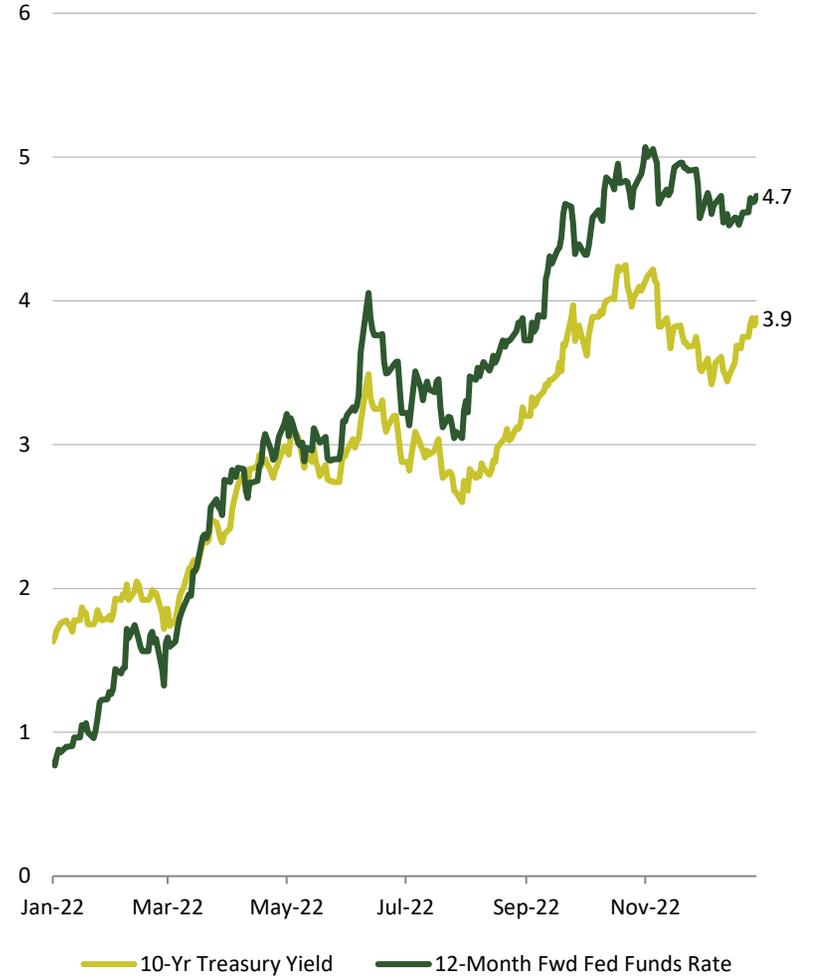
FED RATE HIKE EXPECTATIONS VS THE MARKET

As of December 31, 2022 • Percent (%)



10-YR TREASURY YIELD VS MARKET RATE EXPECTATIONS

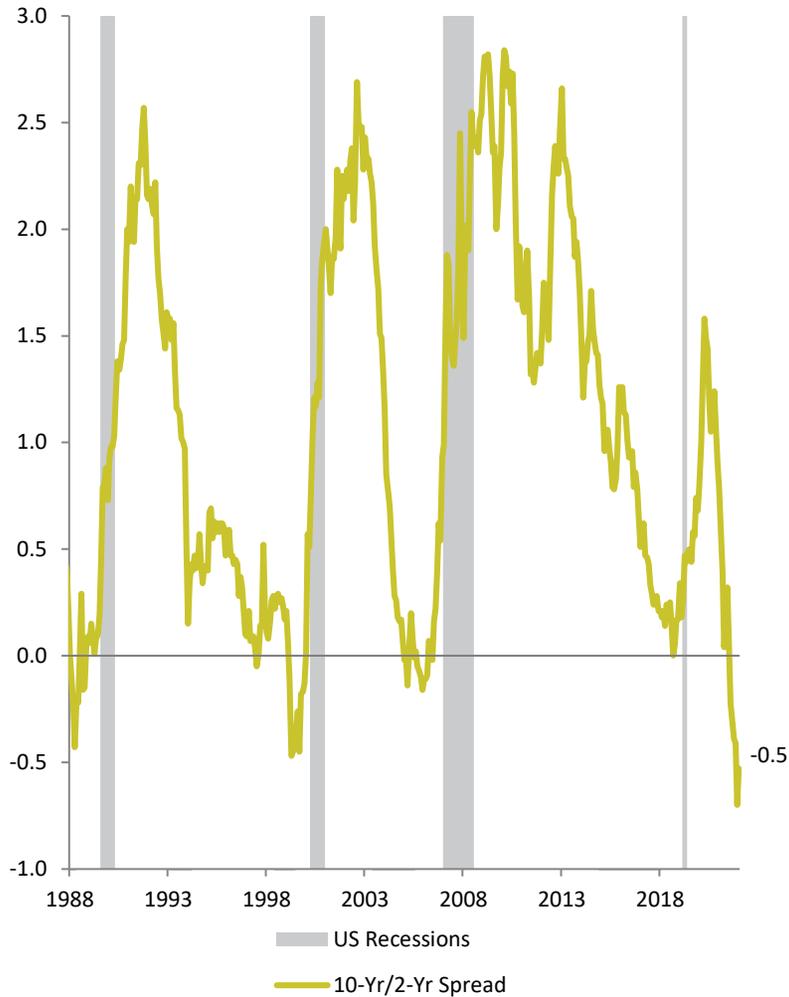
January 1, 2022 – December 31, 2022 • Percent (%)



Recession fears are growing

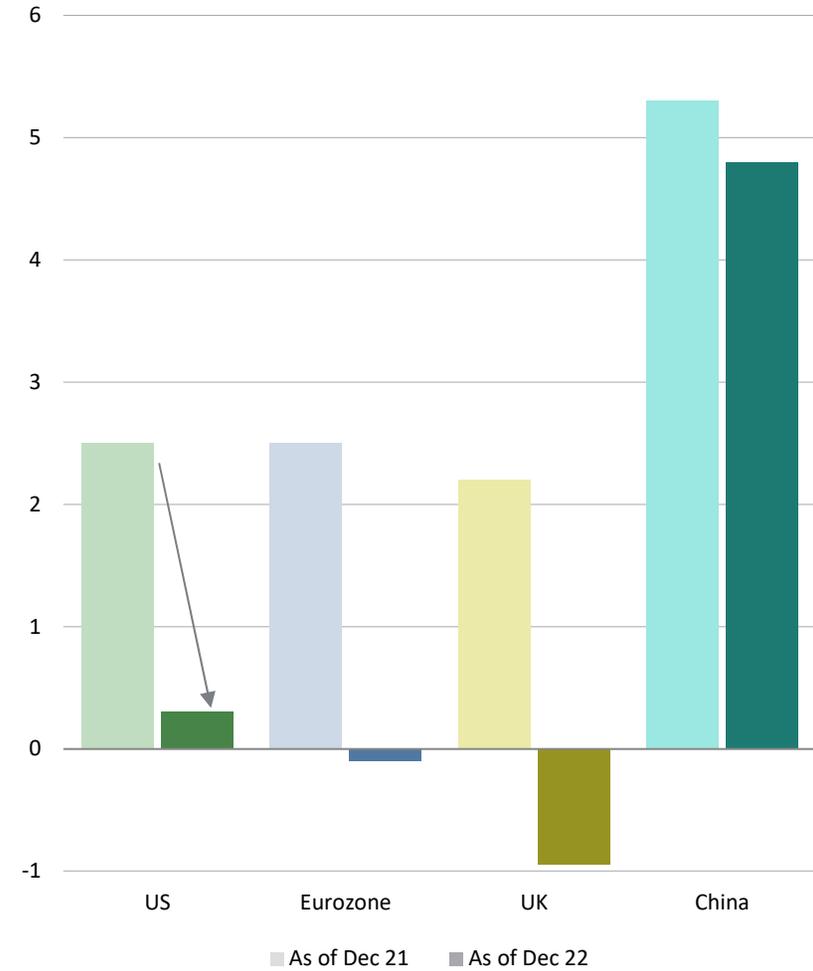
US TREASURY YIELD CURVE DURING US RECESSIONS

December 31, 1988 – December 31, 2022 • Percent (%)



2023 CONSENSUS GDP GROWTH ESTIMATES

As of December 31, 2022 • Percent (%)



Sources: Bloomberg L.P., National Bureau of Economic Research (NBER), and Thomson Reuters Datastream.
 Notes: Recession start dates are based on NBER monthly dates. GDP growth estimates are based on median forecasts.
 MMHC

Asset class returns before, during, and after US recessions

12-MONTH RETURNS AROUND US RECESSIONS

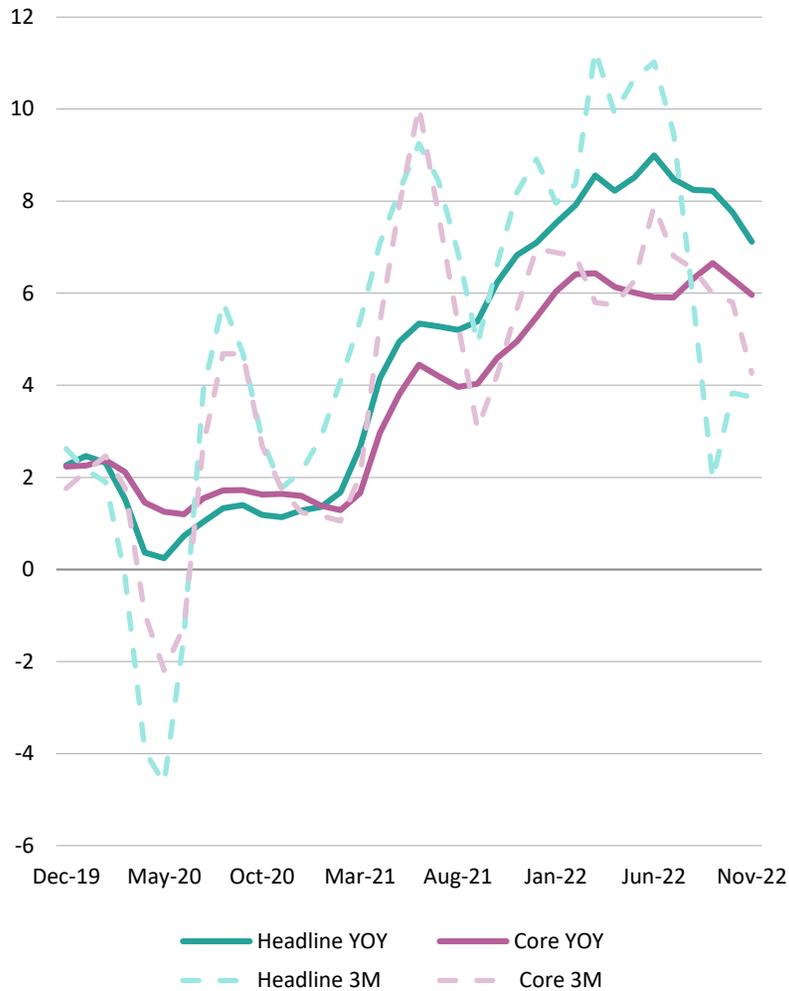
1968–2022

Dates		12 Months <i>BEFORE</i> Recession					12 Months From <i>START</i> of Recession					12 Months From <i>END</i> of Recession				
Recession Start	Recession Length (months)	MSCI US	MSCI ACWI ex US	Russell 2000®	BBG Agg	BBG HY	MSCI US	MSCI ACWI ex US	Russell 2000®	BBG Agg	BBG HY	MSCI US	MSCI ACWI ex US	Russell 2000®	BBG Agg	BBG HY
Dec-69	11	--	--	--	--	--	1	--	--	--	--	9	--	--	--	--
Nov-73	16	-19	--	--	--	--	-28	--	--	--	--	22	--	--	--	--
Jan-80	6	10	--	37	-10	--	12	--	23	-2	--	7	--	26	-13	--
Jul-81	16	7	--	26	-13	--	-18	--	-21	9	--	19	--	30	-1	--
Jul-90	8	3	-7	-7	-2	-12	10	-9	7	1	1	8	-7	19	2	17
Mar-01	8	-25	-28	-17	5	-7	-2	-8	12	-2	-8	-19	-13	-12	1	-12
Dec-07	18	4	14	-3	1	-6	-39	-47	-35	0	-33	12	8	20	4	17
Feb-20	2	6	-3	-6	8	0	32	23	49	-2	3	46	40	73	-4	13
Mean	11	-2	-6	5	-2	-6	-4	-10	6	1	-9	13	7	26	-2	9
Median	10	4	-5	-5	0	-6	0	-8	10	-1	-4	11	0	23	0	15

Inflation may have peaked

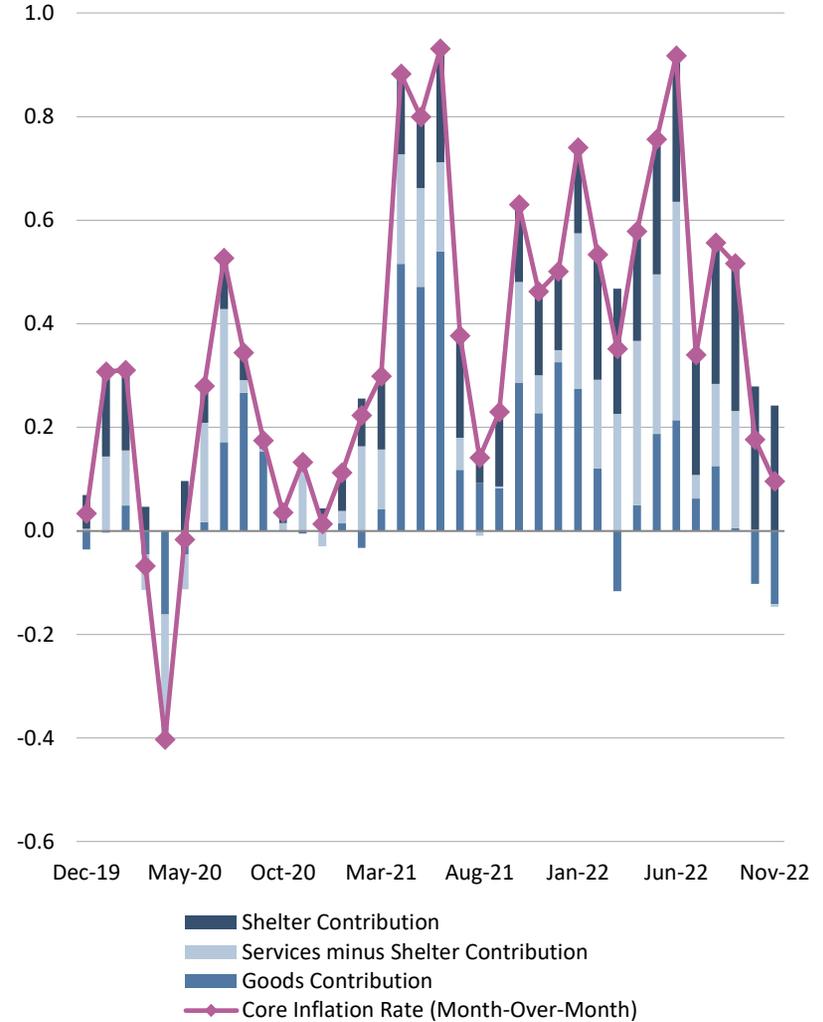
US HEADLINE AND CORE INFLATION

March 31, 1977 – November 30, 2022 • Percent Change (%)



CONTRIBUTION TO MONTHLY CORE PRICE INFLATION

December 31, 2019 – November 30, 2022 • Percent (%)



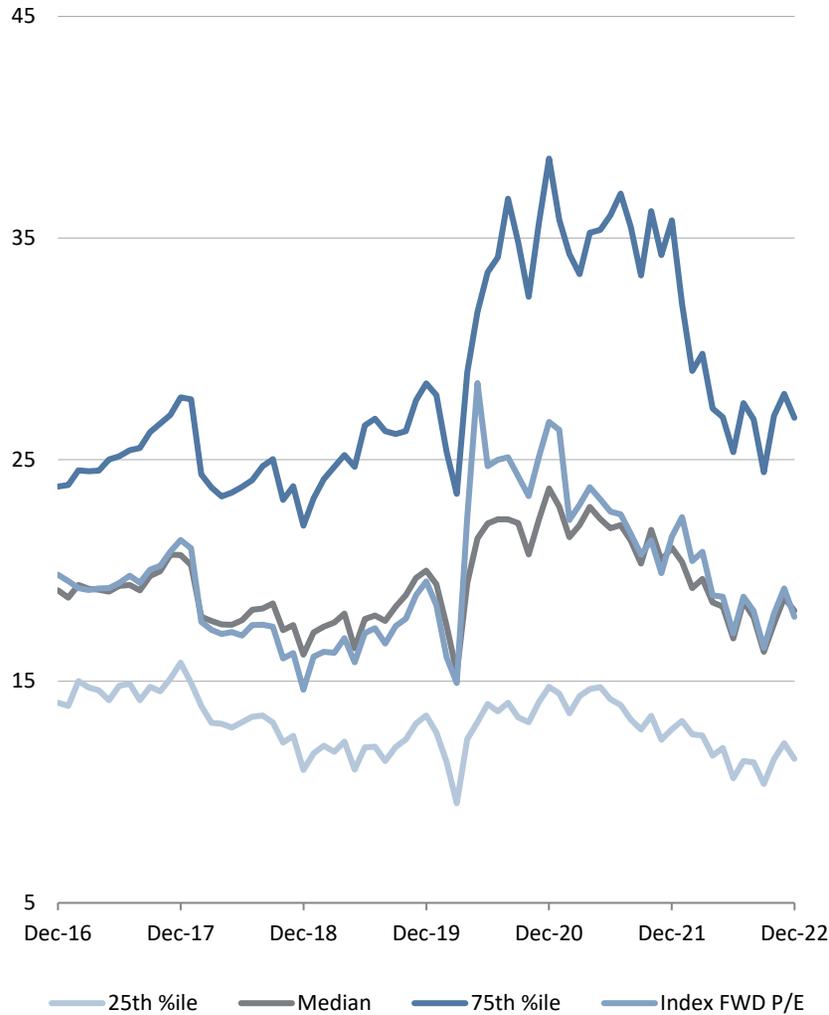
Sources: Thomson Reuters Datastream and US Department of Labor - Bureau of Labor Statistics.

Notes: Data are monthly. LHS chart is comparing year-over-year percent change and three-month SAAR. CPI weights used in inflation contribution are as of September 30, 2022. Shelter contribution reflects rent of shelter. Other shelter components are excluded causing some discrepancy in the actual versus charted month-over-month core inflation rate. MMHC

Expensive stocks de-rated the most in 2022, hurting growth indexes

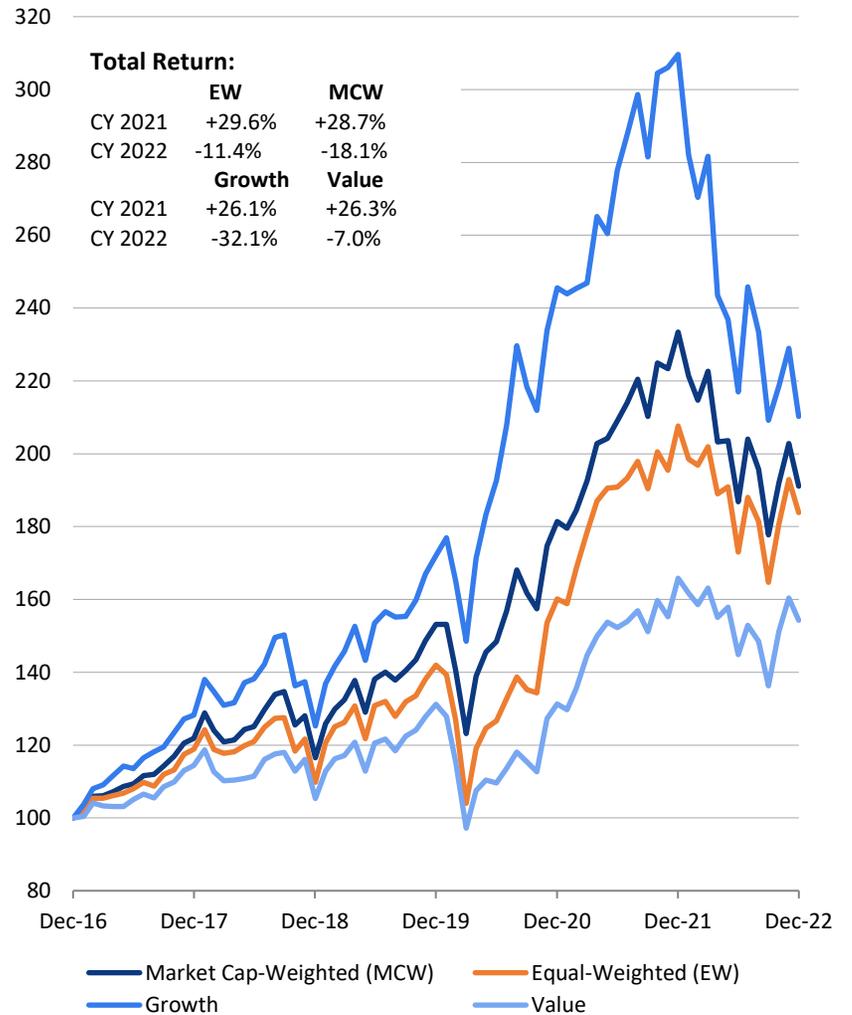
MSCI US FORWARD P/E ESTIMATES BY QUARTILE

December 31, 2016 – December 31, 2022



US EQUITY INDEXES: CUMULATIVE RETURNS

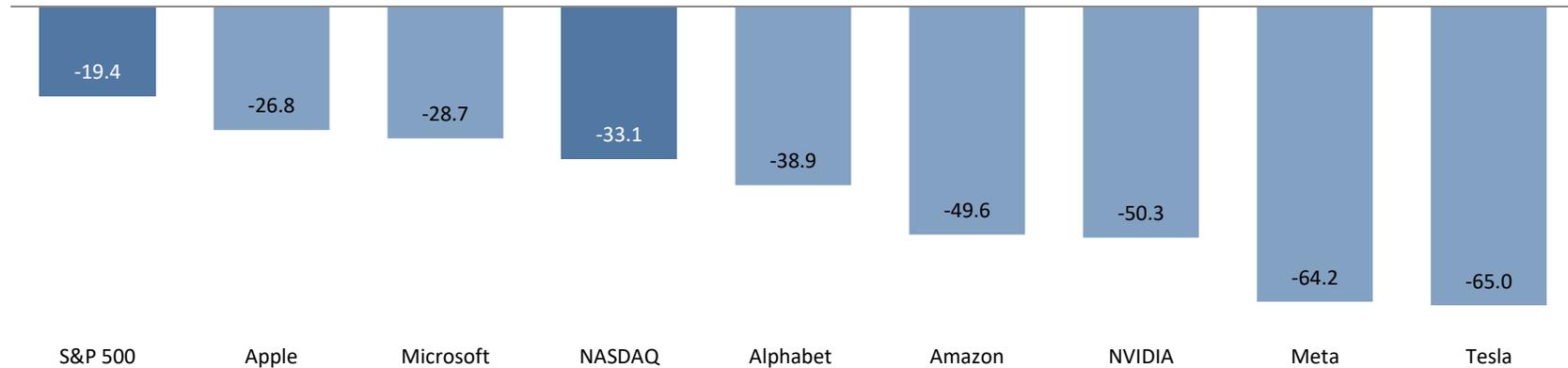
December 31, 2016 – December 31, 2022 • US Dollar • December 31, 2016 = 100



After large 2022 losses, large-cap growth stocks have seen significant multiple de-ratings

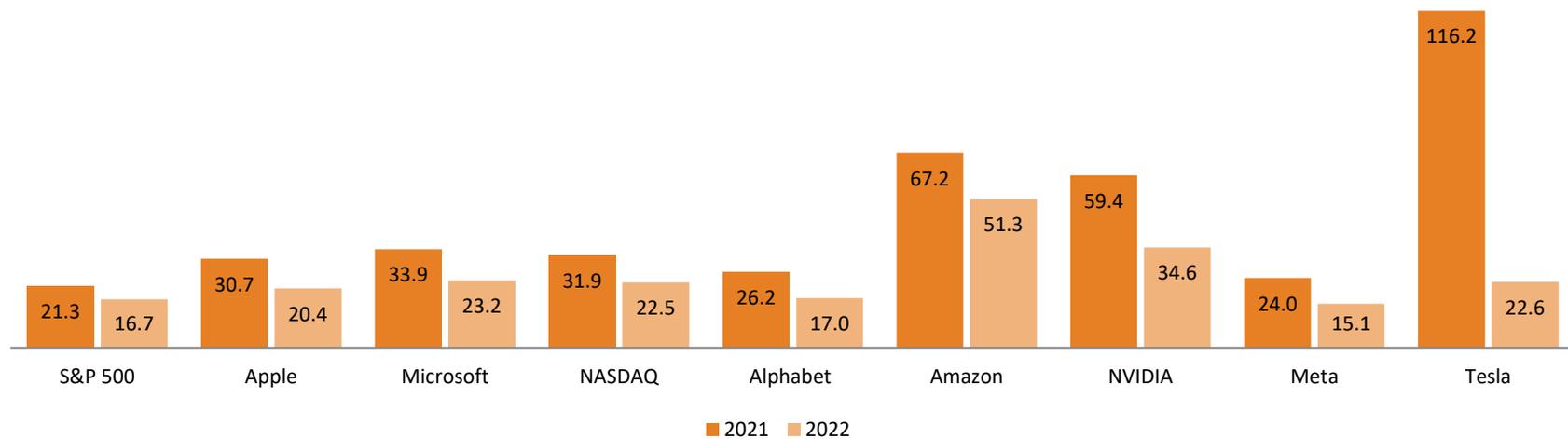
CALENDAR-YEAR 2022 PRICE DECLINES FOR SELECT INDEXES AND STOCKS

As of December 31, 2022 • Percent (%)



2021 & 2022 FORWARD P/E RATIOS FOR SELECT INDEXES AND STOCKS

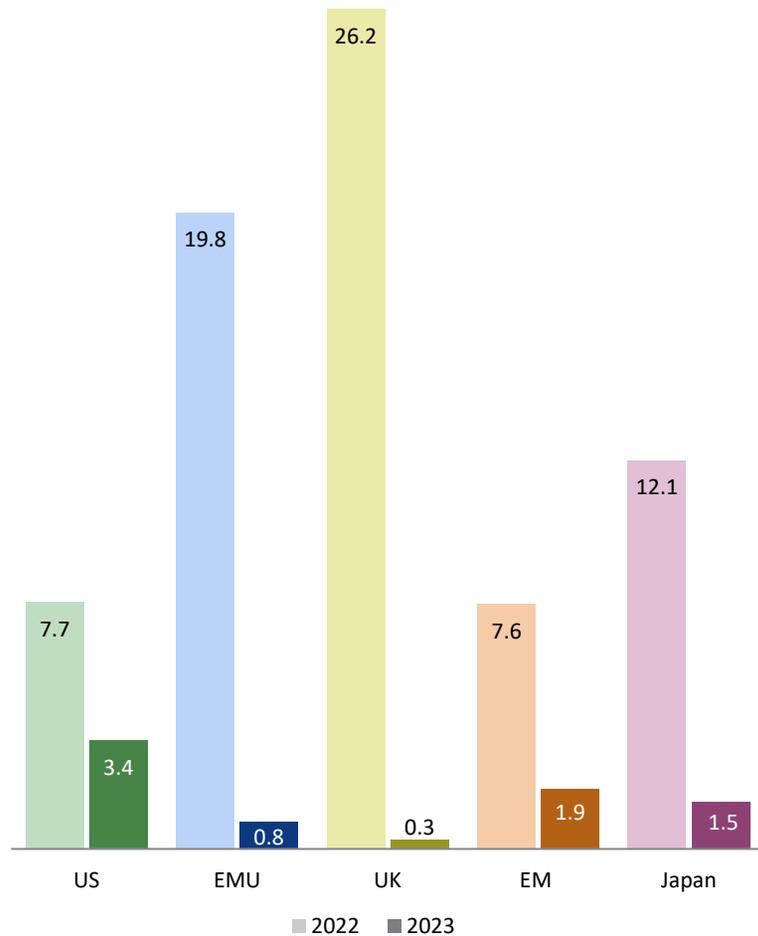
As of December 31, 2022



Earnings growth may not drive returns in 2023

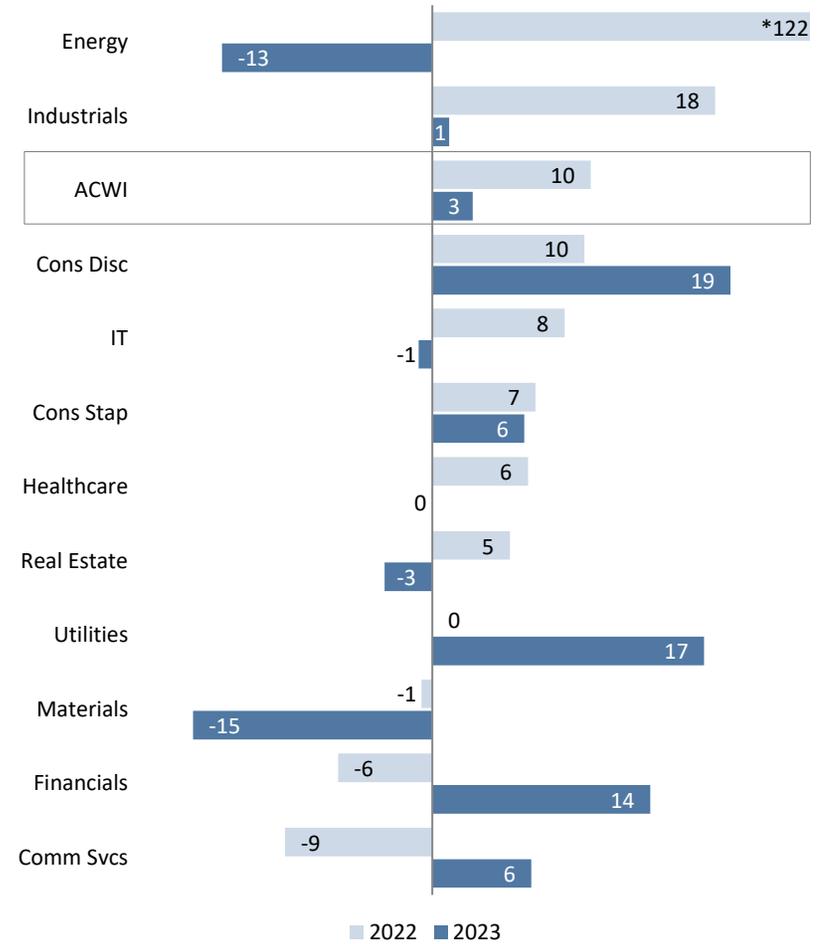
EPS GROWTH ESTIMATES BY REGION

As of December 31, 2022 • Percent (%)



EPS GROWTH ESTIMATES FOR MSCI ACWI SECTORS

As of December 31, 2022 • Percent (%)

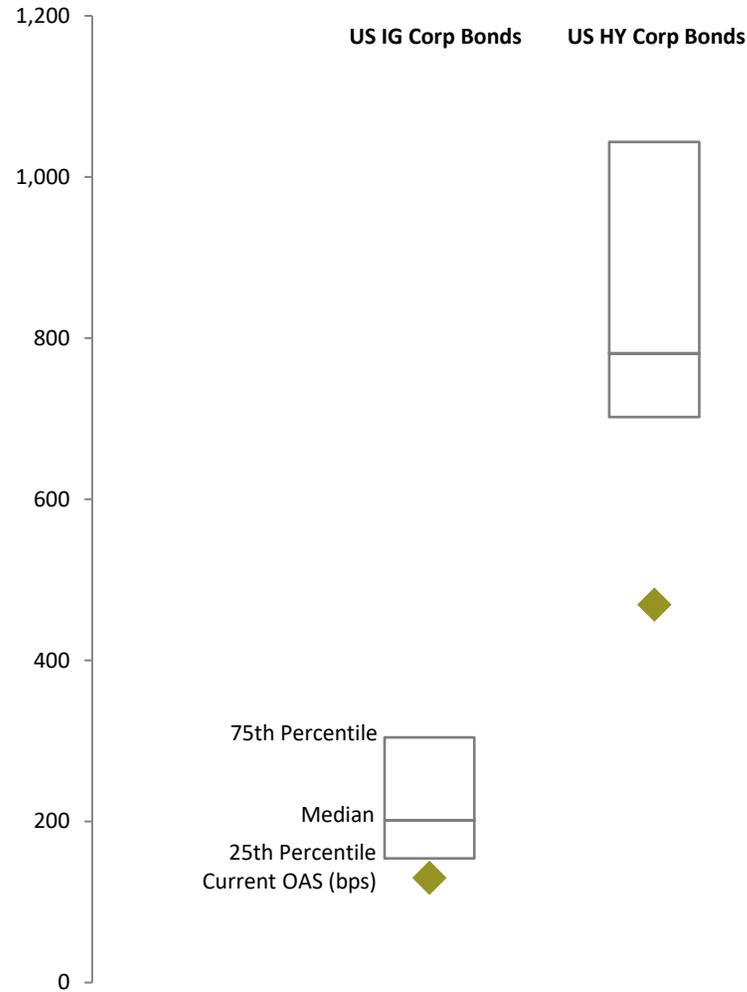


* 2022 Energy EPS growth estimate is capped for scaling.

Despite 2022 losses, stocks and credit still don't appear priced for recession

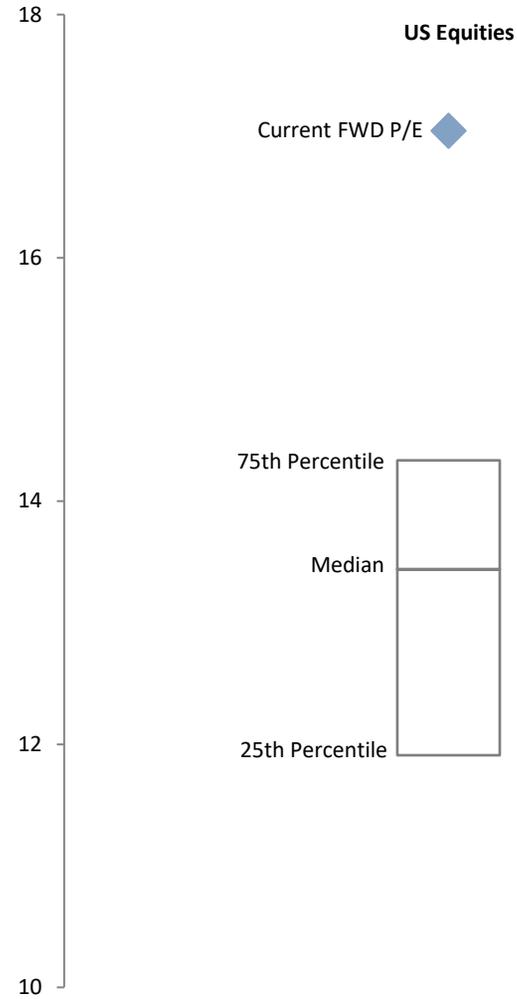
US IG AND HY CORPORATE BONDS OAS DURING RECESSIONS

As of December 31, 2022



US EQUITIES FWD P/E RATIO DURING RECESSIONS

As of December 31, 2022

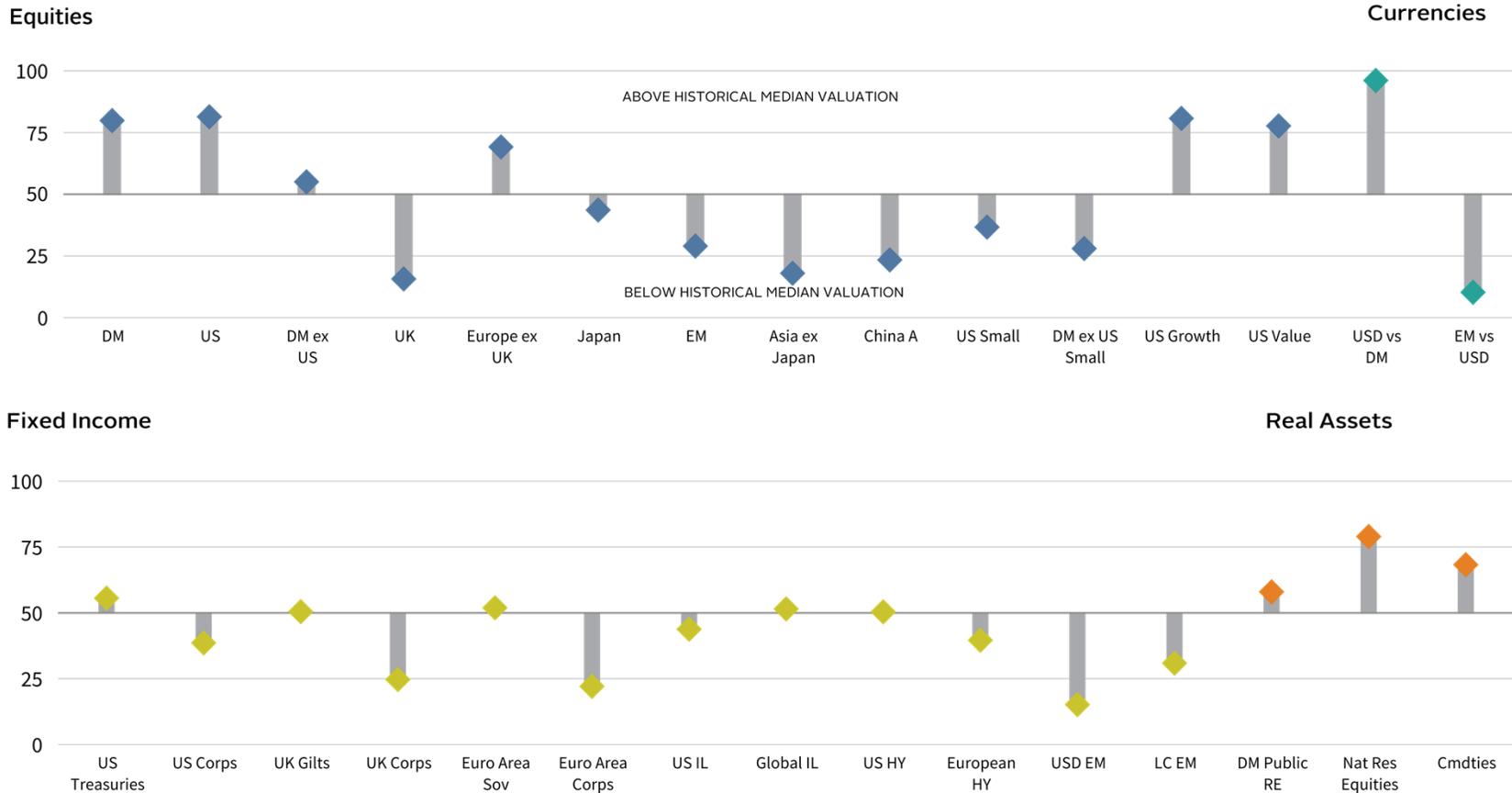


Sources: Bloomberg Index Services Limited, MSCI Inc., National Bureau of Economic Research, and Thomson Reuters Datastream. MSCI data provided "as is" without any express or implied warranties. Notes: Data are monthly. Observation periods begin: June 30, 1989 for US IG Corporate Bonds, January 31, 1994 for US HY Corp Bonds, and June 30, 2003 for US Equities. Data for US investment-grade (IG) bonds are represented by the Bloomberg US Corporate Investment Grade Bond Index, data for US high-yield (HY) bonds are represented by the Bloomberg US High Yield Bond Index, and data for US Equities are represented by the MSCI US Index. MMHC

Cambridge Associates Current Valuations Summary

CURRENT VALUATION LEVELS OF VARIOUS ASSET CLASSES

As of December 31, 2022 • Percentile



Source: Cambridge Associates LLC.

Notes: This exhibit compares current valuation levels to historical levels across a variety of asset classes. A percentile rank of 50 indicates that an asset class's current valuation level is consistent with its long-term median, while a percentile rank of 75 indicates that level is higher than 75% of historical data. The valuation level for each asset class is determined by a metric or composite of metrics relevant to that asset class.

PERFORMANCE REVIEW

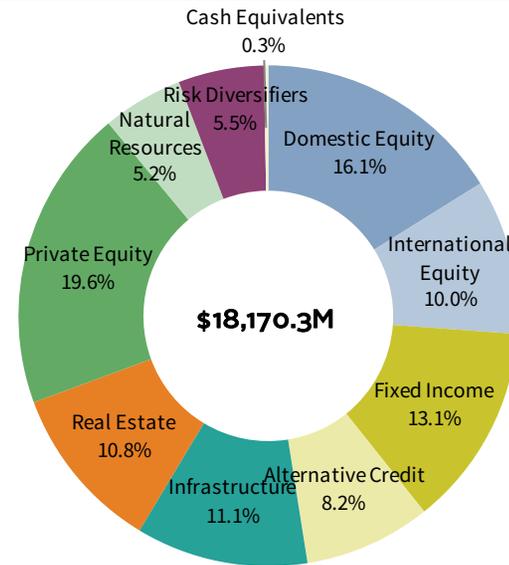


MainePERS Allocation Snapshot

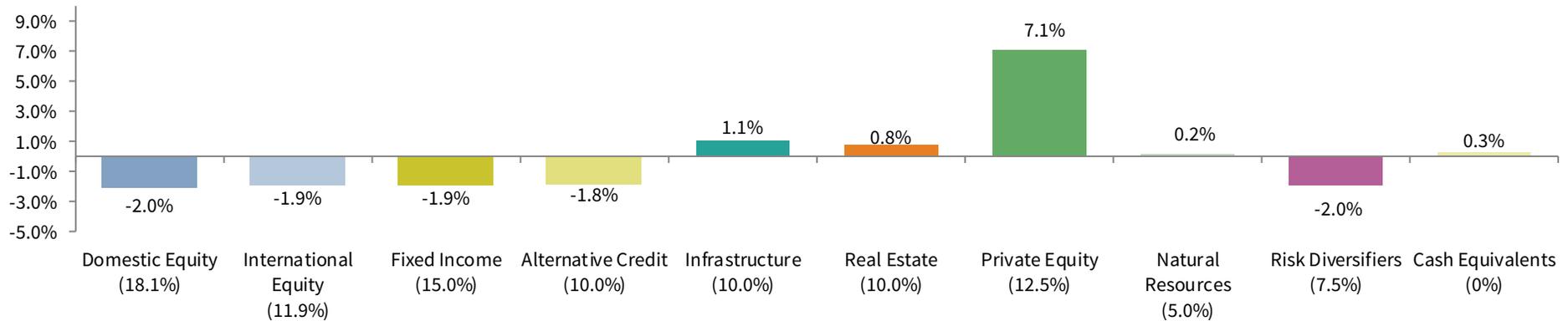
As of December 31, 2022

Asset Allocation (\$ Millions)

Asset Class	\$(M)	%
Domestic Equity	2,931.4	16.1%
International Equity	1,819.6	10.0%
Fixed Income	2,385.8	13.1%
Alternative Credit	1,490.8	8.2%
Infrastructure	2,024.3	11.1%
Real Estate	1,957.4	10.8%
Private Equity	3,553.7	19.6%
Natural Resources	949.4	5.2%
Risk Diversifiers	1,007.8	5.5%
Cash Equivalents	50.2	0.3%
Total	\$18,170.3	100.0%



Relative Weights vs. Policy Targets

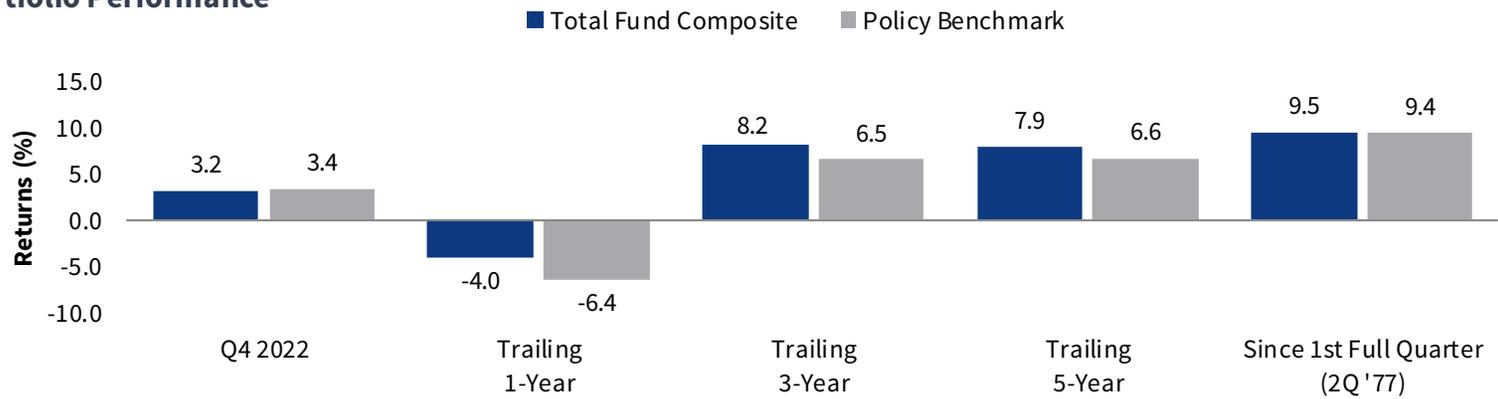


Note: Interim Policy Target allocation in parentheses. Asset class, composite breakout, and performance is based on JP Morgan performance data. Risk Diversifiers NAV is preliminary.

MainePERS Performance Summary

As of December 31, 2022

Total Portfolio Performance



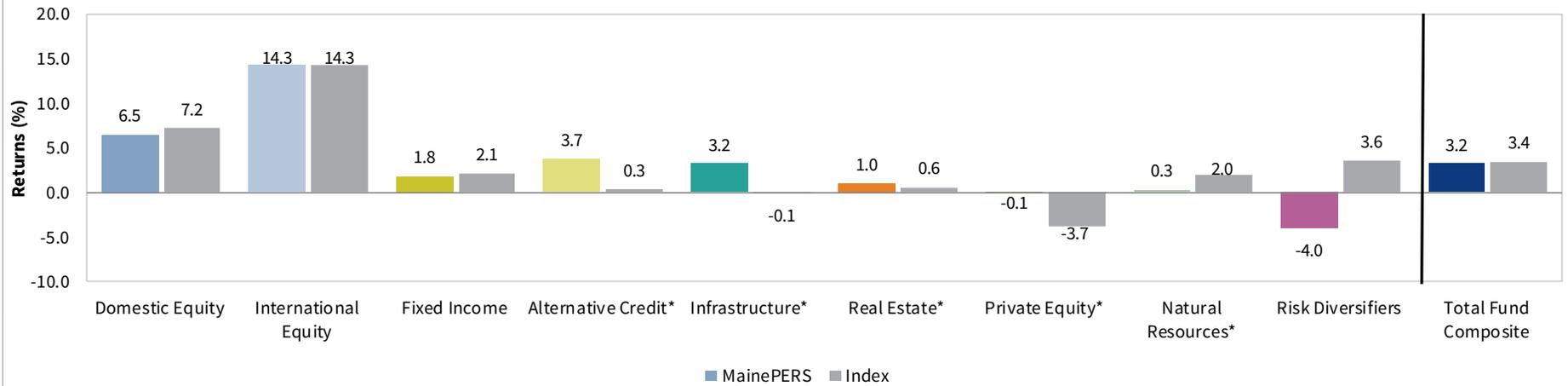
	Q4 2022	Trailing 1-Year	Trailing 3-Year	Trailing 5-Year	Since 1st Full Quarter (2Q '77)
Total Fund Composite	3.2	(4.0)	8.2	7.9	9.5
Policy Benchmark	3.4	(6.4)	6.5	6.6	9.4
<i>Value Added</i>	<i>(0.2)</i>	<i>2.3</i>	<i>1.7</i>	<i>1.3</i>	<i>0.1</i>

MainePERS Asset Class Performance

As of December 31, 2022

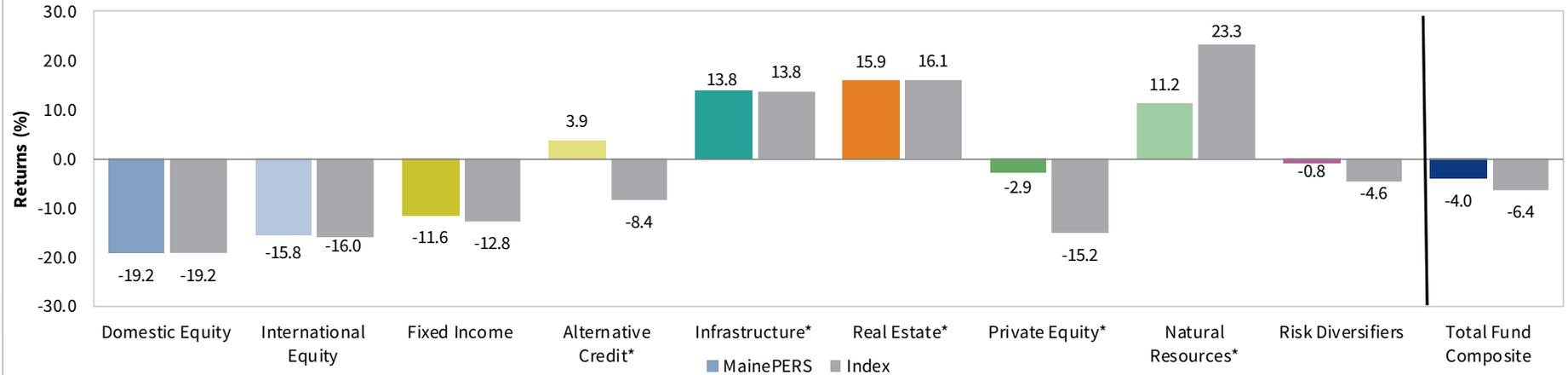
Quarter-to-Date

October 1, 2022 - December 31, 2022



Trailing 1-Year

January 1, 2022 - December 31, 2022



Notes: Asset class benchmarks (from left to right): Index returns for Infrastructure, Real Estate, and Natural Resources are reported on a quarterly basis. Returns reported by J.P. Morgan, except for Infrastructure and Real Estate indices, which are reported by Cambridge Associates on a quarter lag. Returns for CA Real Estate and Infrastructure indices are preliminary, and subject to adjustment. Performance for Risk Diversifiers is preliminary.
 *Performance is reported on a quarter lag, as September 30, 2022.

Asset Class Benchmarks

Asset Class	Benchmark	Long-Term Target
	Russell 3000 ¹	18.6%
	MSCI ACWI ex US ²	11.4%
Public Equity	Total Public Equity	30.0%
Private Equity	Russell 3000 + 3% per annum (1 qtr lag)	12.5%
Risk Diversifiers	0.3 Beta MSCI ACWI ³	7.5%
Real Estate	NCREIF Property (1 qtr lag)	10.0%
Infrastructure	Cambridge Associates Infrastructure Median (1 qtr lag)	10.0%
Natural Resources	Cambridge Associates Natural Resources Median (1 qtr lag)	5.0%
Traditional Credit	Barclays US Agg ex Treasury	5.0%
Alternative Credit	50% BAML US HY II + 50% S&P/LSTA US Leveraged Loan Index (1 qtr lag) ⁴	10.0%
US Govt Treasuries	Custom Fixed Income ⁵	10.0%
Total		100.0%

1. Russell 3000 weight is based upon the MSCI ACWI weighting for US

2. MSCI ACWI ex US weight is based upon the MSCI ACWI weighting for International

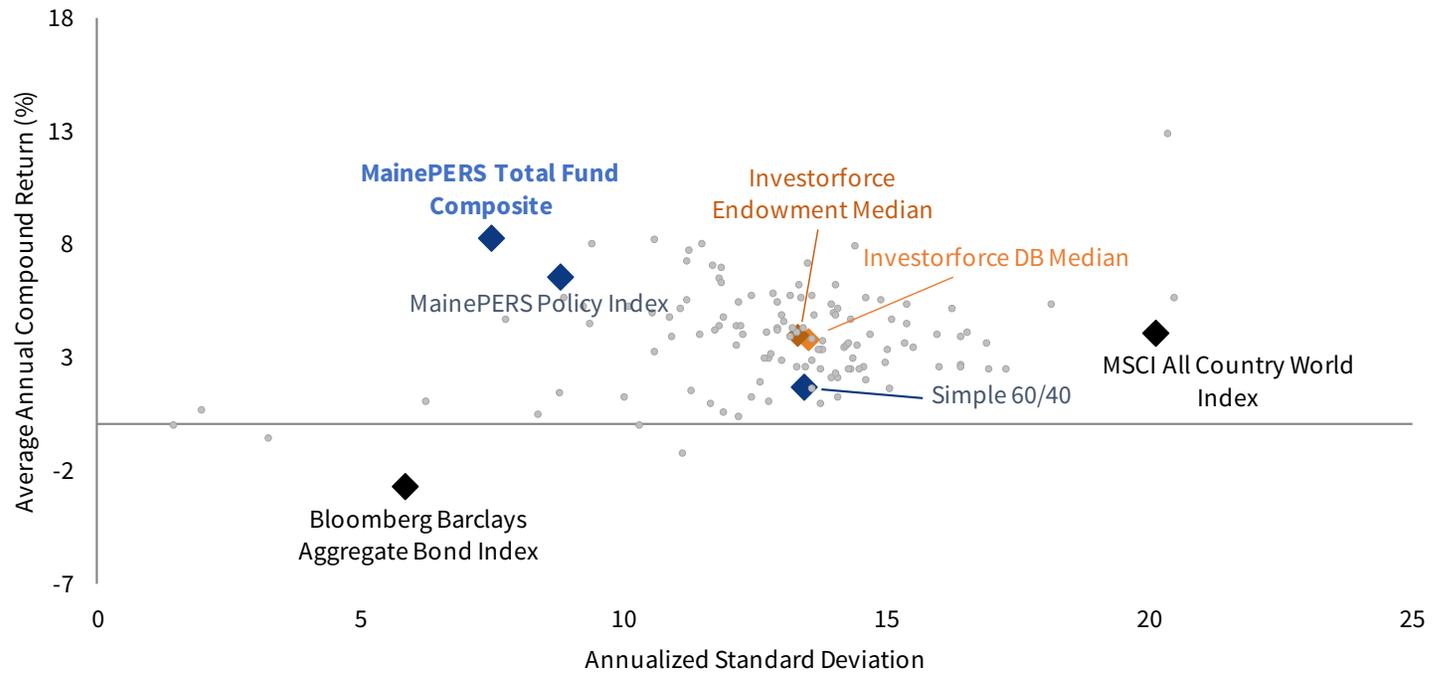
3. 91-day T-bill + 0.3(MSCI ACWI Return – 91-day T-bill)

4. 50% Bank of America US High Yield II + 50% S&P/Loan Syndications & Trading Association US Leveraged Loan Index

5. 65% 0-5 Year TIPS / 35% US TIPS Fund

MainePERS Risk/Return – 3 Years

As of December 31, 2022



	Average Annual Compound Return	Annualized Standard Deviation	Sharpe Ratio ¹	Beta vs. MSCI ACWI
MainePERS - Total Fund Composite	8.2	7.5	1.0	0.31
MainePERS - Policy Index	6.5	8.8	0.7	0.34
Simple 60/40	1.7	13.4	0.1	0.66
Investorforce Public DB Plan Median	3.7	13.5	0.2	---
Investorforce Endowment Median	4.0	13.3	0.3	---
Indices				
MSCI All Country World Index (Net)	4.0	20.1	0.2	--
Bloomberg Barclays Aggregate Bond Index	-2.7	5.9	-0.6	0.15



Note: Calculations are based on monthly data, net of fees.

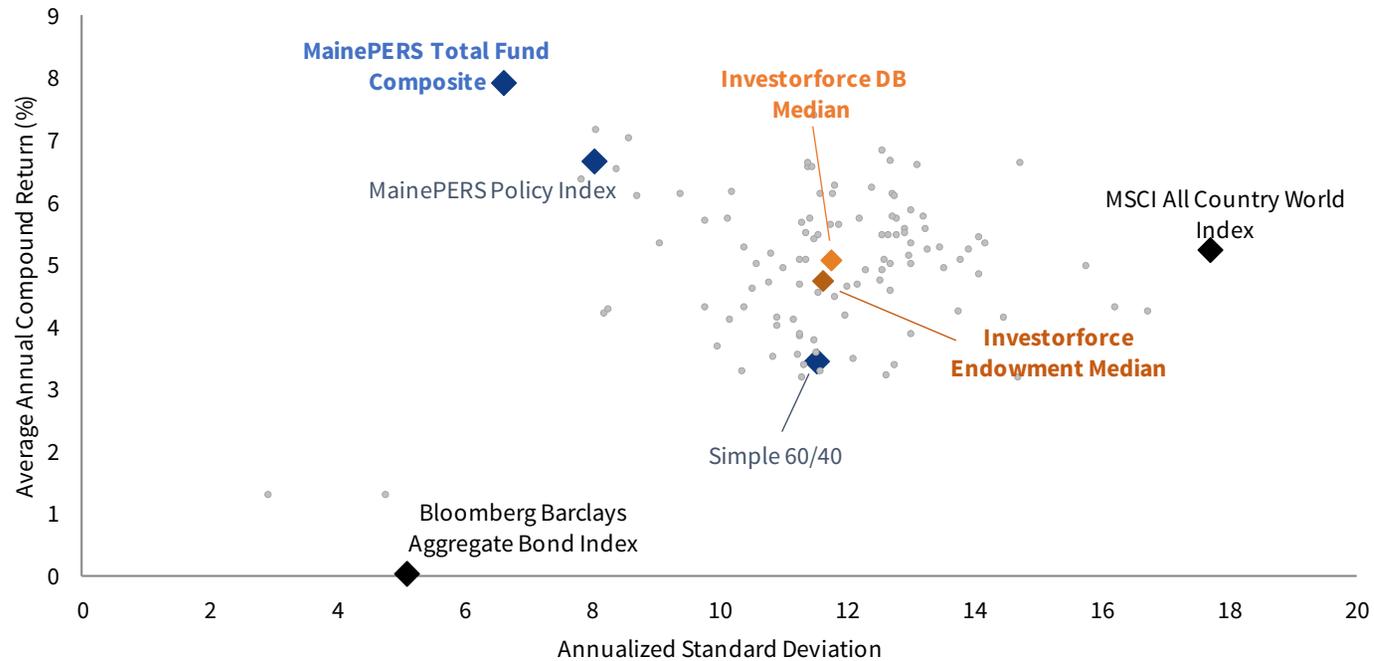
¹The Sharpe Ratio represents the excess return generated for each unit of risk. To calculate this number, subtract the average T-Bill return (risk-free return) from the manager's average return, then divide by the manager's standard deviation. The Investor Force data uses the median return and standard deviations are based on monthly data, net of fees.

² Simple 60/40 is 60% MSCI ACWI and 40% BC Aggregate US Bond Index.

³ Net Investor Force Median data reflects median of 3-year returns and the standard deviations as reported by institutions with over \$100m in assets to Investor Force.

MainePERS Risk/Return – 5 Years

As of December 31, 2022



	Average Annual Compound Return	Annualized Standard Deviation	Sharpe Ratio ¹	Beta vs. MSCI ACWI
MainePERS - Total Fund Composite	7.9	6.6	1.0	0.32
MainePERS - Policy Index	6.6	8.1	0.7	0.38
Simple 60/40	3.5	11.5	0.2	0.64
Investorforce Public DB Plan Median	5.1	11.8	0.3	---
Investorforce Endowment Median	4.7	11.6	0.3	---
Indices				
MSCI All Country World Index (Net)	5.2	17.7	0.2	--
Bloomberg Barclays Aggregate Bond Index	0.0	5.1	-0.2	0.11



Note: Calculations are based on monthly data, net of fees.

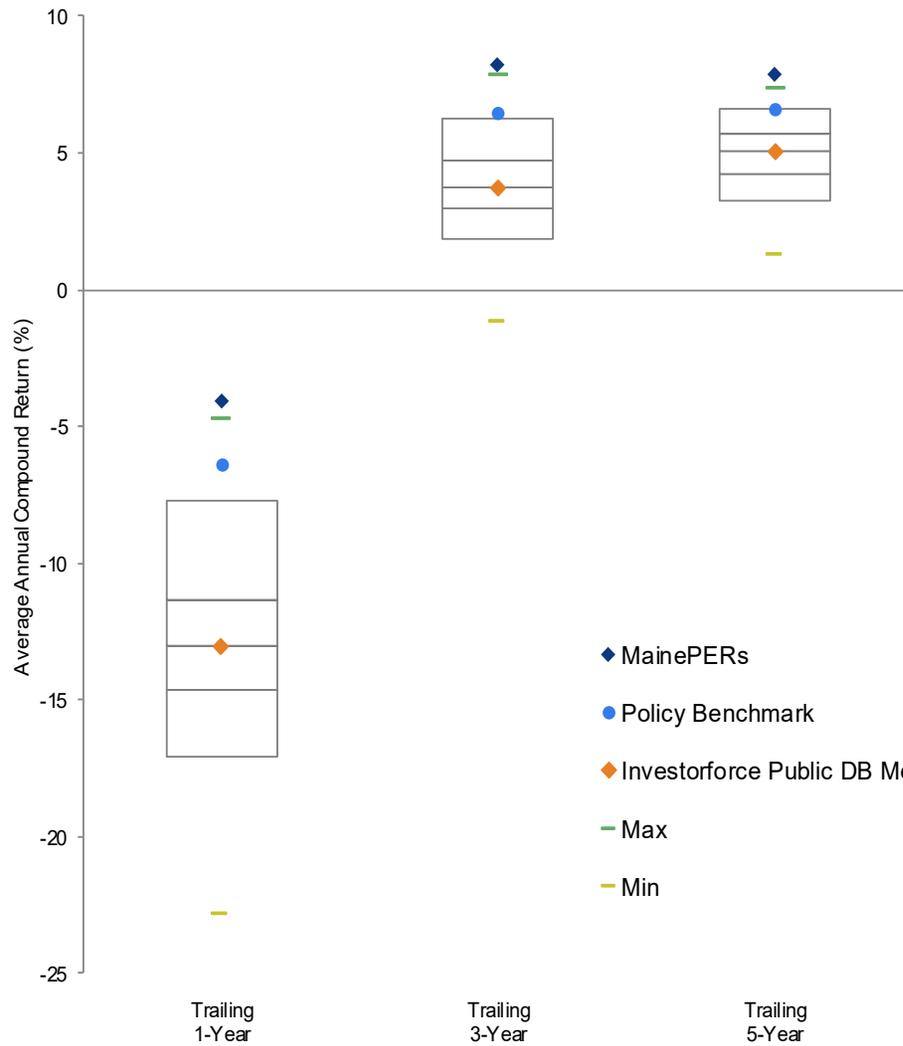
¹The Sharpe Ratio represents the excess return generated for each unit of risk. To calculate this number, subtract the average T-Bill return (risk-free return) from the manager's average return, then divide by the manager's standard deviation. The Investor Force data uses the median return and standard deviations are based on monthly data, net of fees.

² Simple 60/40 is 60% MSCI ACWI and 40% BC Aggregate US Bond Index.

³ Net Investor Force Median data reflects median of 5-year returns and the standard deviations as reported by institutions with over \$100m in assets to Investor Force.

MainePERS vs. Defined Benefit Peers

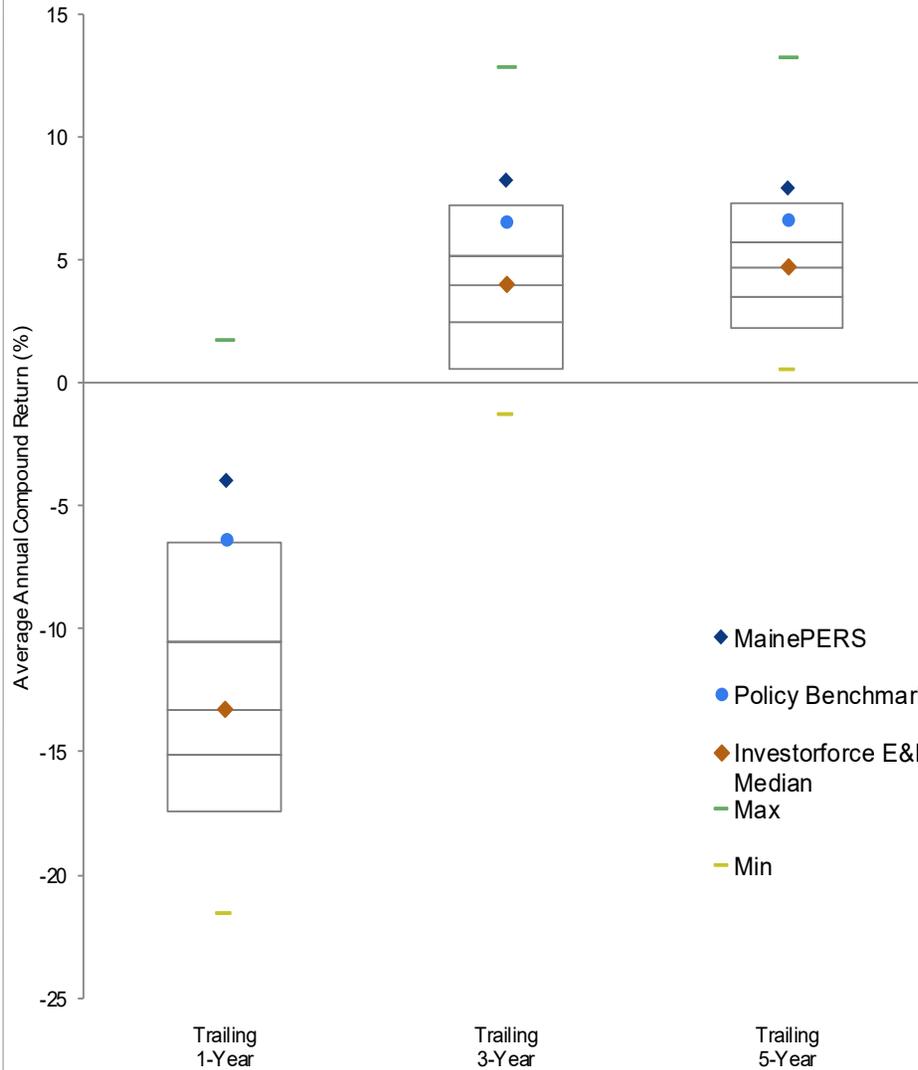
As of December 31, 2022



	<u>One Year</u>	<u>Three Year</u>	<u>Five Year</u>
MainePERS	-4.0	8.2	7.9
Policy Benchmark	-6.4	6.5	6.6
Max	-4.7	7.9	7.4
5th Percentile	-7.7	6.3	6.6
25th Percentile	-11.4	4.8	5.7
Investorforce Public DB Median	-13.1	3.8	5.1
75th Percentile	-14.6	2.9	4.2
95th Percentile	-17.1	1.9	3.3
Min	-22.8	-1.2	1.3
Sample Size			
n	108	107	104

MainePERS vs. E&F Peers

As of December 31, 2022



MainePERS

Policy Benchmark

- Max
- 5th Percentile
- 25th Percentile
- Investorforce E&F Median
- 75th Percentile
- 95th Percentile
- Min

Sample Size *n*

	One Year	Three Year	Five Year
MainePERS	-4.0	8.2	7.9
Policy Benchmark	-6.4	6.5	6.6
Max	1.7	12.8	13.2
5th Percentile	-6.5	7.2	7.3
25th Percentile	-10.5	5.1	5.7
Investorforce E&F Median	-13.3	4.0	4.7
75th Percentile	-15.1	2.5	3.5
95th Percentile	-17.4	0.5	2.2
Min	-21.6	-1.3	0.5
Sample Size <i>n</i>	131	123	117



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MAINEPERS

BOARD OF TRUSTEES RULEMAKING MEMORANDUM

TO: BOARD MEMBERS
FROM: MICHAEL J. COLLERAN, COO AND GENERAL COUNSEL
KATHY MORIN, DIRECTOR OF ACTUARIAL & LEGISLATIVE AFFAIRS
SUBJECT: RULEMAKING
DATE: FEBRUARY 1, 2023

The February meeting will include Board consideration of six proposals resulting from consensus-based rule development:

1. New Rule Chapter 506 (Eligibility for Disability Retirement Benefits);
2. Repeal of Rule Chapter 507 (Determination of Inability to Engage in Substantially Gainful Activity);
3. Repeal of Rule Chapter 509 (Determination of Inability to Perform the Functions of the Employment Position);
4. Amendments to Rule Chapter 510 (Reduction of Disability Retirement Benefits because of Lump-Sum Settlements of Benefits Payable under the Workers' Compensation or Similar Law or the United States Social Security Act);
5. Amendments to Rule Chapter 511 (Standards for Actively Seeking Work); and
6. Amendments to Rule Chapter 702 (Appeals).

Copies of the proposals and their proposed basis statements follow this memo. Public hearings were held at the January meeting, and written comments were accepted through January 23, 2023. One member of the public commented on proposed Rule Chapter 506 and one of the proposed amendments to Rule Chapter 702. No comments were received on the other rules. The written comments received are enclosed.

POLICY REFERENCE

[Board Policy 2.3 -- Rulemaking](#)

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communications and Support to the Board](#)

RULE CHAPTER 506

We have not previously had a single rule that addresses eligibility for disability retirement benefits. The proposed rule sets forth the standards and processes for determining eligibility pursuant to statutory law at both the initial application stage and upon review for continued eligibility.

Sarah Walton provided oral and written public comments on the proposed rule. First, the commenter opined that the last sentence in the definition of “(c)onsistent with the persons’ training, education, or experience” should be deleted. Part of the continued eligibility determination when a disability retirement benefit recipient is reviewed is whether they can perform substantially gainful activity that would generate annual income in excess of the substantially gainful activity amount. The definition provided in the rule acknowledges that, although the individual has training, education or experience in a specific area, some additional training may be necessary to perform the activity. This is consistent with existing Rule Chapter 507 and the Superior Court’s decision in *Davidson vs. Maine State Retirement System*, 2000 Me. Super. LEXIS 115, which provide that transferrable skills and knowledge can make a position “(c)onsistent with the persons’ training, education, or experience” notwithstanding the need for additional position-specific training. For this reason, staff is not recommending any change in response to this comment.

Second, the commenter opined that the definition of “earnings” should be clarified to include only income generated by “...the retiree’s own productive work activity.” Further, that assuming that net rental income from real estate derives from work activity performed by the retiree is unfair. In oral comments, the commenter also opined that “income received in return for...goods...” should not be considered income. In response to these comments, staff recommends that the reference to goods and the suggestion of a presumption on real estate income should be removed. The attached version of the proposed rule makes those changes.

Third, the commenter opined that the definition of “substantially gainful activity” is too broad and that MainePERS should consider “medical and vocational evidence in determining whether the beneficiary has the physical, mental, and vocational capabilities to perform substantially gainful activity.” Staff believes the proposed definition is consistent with statute and closely aligns with current Rule Chapter 507 and notes that evidence of the sort identified by the commenter may be considered by MainePERS under the proposed rule. Staff does not recommend any changes to the proposed rule based on this comment.

Fourth, the commenter opined that the term “whole-person approach” as used in the proposed rule should be defined. Staff believes that the proposed language in the rule is clear in that it requires that conditions and resulting functional limitations be considered “in totality” and no change is recommended to address this comment.

Fifth, the commenter opined that the proposed rule should include additional information about the application of the disabled veteran presumption. In response to this comment, staff notes that the presumption is adequately set forth in statute and recommends amending the rule language to include the applicable statutory cites. The attached version of the proposed rule makes those changes.

Sixth, the commenter suggests reconsideration of the definition of “earnings” as it relates to review for continuing eligibility. Changes to the definition of “earnings” are discussed above. The commenter also suggests a review of MainePERS’ practices regarding earnings review. This is outside of the scope of the current rulemaking. Staff recommends no additional changes based on this comment.

Seventh, the commenter requests that the proposed rule be expanded to include additional sections regarding termination of benefits and the actively seeking work program. These topics are beyond the scope of the subject of this rule, which is eligibility for disability retirement. Staff recommends no changes in response to this comment.

In summary, based on consideration of the comments received, staff has revised the proposed definition of “earnings” and added statutory cites.

RULE CHAPTERS 507 AND 509

Rule Chapters 507 and 509 respectively address the determinations of inability to: (1) engage in any substantially gainful activity; and (2) perform the essential functions of the employment position with reasonable accommodation. The new Rule Chapter 506 would address these subjects, so we are proposing the repeal of Rule Chapters 507 and 509 if Rule Chapter 506 is adopted.

RULE CHAPTER 510

This rule sets forth the methodology for determining the offset to disability retirement benefits when a recipient receives a lump-sum settlement of benefits under the workers’ compensation or similar law or the United States Social Security Act. The proposed amendments align the rule with statute, where there is a distinction in methodology between the State-funded and PLD plans that is not reflected in the current rule. We have been applying the statutory distinction in our operations.

RULE CHAPTER 511

Rule Chapter 511 sets out the standards and process governing the actively seeking work program. When a recipient of disability retirement benefits is determined to no longer be disabled, the benefits continue as long as the recipient is actively seeking work. The proposed amendment

establishes a rebuttable presumption that the recipient has not been actively seeking work if no work has been secured within five years. This presumption may be rebutted by a showing that the inability to secure work was out of the recipient's control. For current participants in the program, the five-year period would run from December 31, 2022.

RULE CHAPTER 702

This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. The proposed amendments update and clarify the appeals process, including: (1) how an appeal can be filed; (2) how employers can participate in an appeal; (3) when an appellant is entitled to receive the appeals packet; (4) when an appellant is entitled to an independent medical examination; (5) how appellants must be notified that their appeal may be considered abandoned; (6) how testimony may be provided; and (7) how much time the Chief Executive Officer has to reconsider decisions.

Sarah Walton recommended that Section 8(3)(J) of the rule not be deleted as proposed. The commenter opined that leaving this section in place would permit the hearing officer to serve as a "neutral and independent decision maker" as required by statute and that the hearing officer "should not be limited to receiving only the medical information that MainePERS staff chooses to obtain and include" in the records that go to the hearing officer for consideration. The commenter suggested that the medical review service provider could assist the hearing officer in framing a referral for an independent medical examination.

Staff believes that the removal of Section 8(3)(J) as proposed does not impede the ability of hearing officers to be independent decision makers. Hearing officers are not limited to information that MainePERS staff provides. Appellants also have the opportunity to submit evidence, and the proposed amended rule provides the hearing officer with authority to order an independent medical examination if one has not already been obtained.

The medical review service provider's role in the disability eligibility process is to provide recommendations and opinions to the Chief Executive Officer. 5 M.R.S. § 17106-B. Hearing officers in practice have not used their authority in the existing rule to refer cases to the medical review service provider or previously to the medical board, at least for many years. Neither hearing officers nor the Chief Executive Officer use the medical review service provider to frame referrals for independent medical examinations.

Based on the above, staff does not believe that any additional changes to the proposed rule are necessary.

RECOMMENDATION

1. *That the Board adopt Rule Chapter 506 and its Basis Statement.*

2. *That the Board repeal Rule Chapters 507 and 509 and adopt the Basis Statements for these actions.*
3. *That the Board amend Rule Chapters 510, 511, and 702 and adopt the Basis Statements for these actions*

94-411 MAINE STATE RETIREMENT SYSTEM

Chapter 506: ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS

SUMMARY: This chapter sets forth the standards and processes for determining eligibility for disability retirement benefits.

SECTION 1. DEFINITIONS

1. **Consistent with the person’s training, education, or experience.** “Consistent with the person’s training, education, or experience” has the same meaning as “qualified by training, education or experience.” A member may be qualified by training, education, or experience to engage in an activity even if the member has not previously engaged in it or has not engaged in it for pay. The fact that the member may need additional training for a specific position does not mean that the position is inconsistent with the member’s training, education, or experience.
2. **Continuous creditable service.** “Continuous creditable service” means a period of membership service that occurs without any break in excess of 30 days. A period of leave under the federal Family Medical Leave Act where the member returned to the employment position at the end of the leave period does not constitute a break in membership service.
3. **Date of incapacity.** “Date of incapacity” means the date when a member stopped performing the essential functions of the member’s employment position due to functional limitations caused by a mental or physical condition.
4. **Earnings.** “Earnings” means wages from employment and non-wage net income received in return for labor or services, such as received in self-employment.
5. **Employment position.** “Employment position” means the position in which the member is employed at the time the member becomes incapacitated or a position that is made available to the member by the member's employer that is of comparable stature and equal or greater compensation and benefits and located within a reasonable commuting distance from the member’s residence.
6. **Existed before membership.** A condition “existed before membership” if, as of the member’s initial membership date, the condition:
 - A. Had been diagnosed by a health care provider;
 - B. Reasonably should have been diagnosed by a health care provider based on the member’s medical records and symptoms and the results of any additional tests the provider reasonably should have requested;
 - C. Had exhibited some, but not all signs and symptoms necessary for a diagnosis, but later manifested all such signs and symptoms and was diagnosed; or

- D. Was directly caused by another condition that was diagnosed or reasonably should have been diagnosed before membership.
7. **Incapacity.** “Incapacity” means unable to perform the essential functions of the member’s employment position with reasonable accommodation due to functional limitations caused by a mental or physical condition.
8. **In service.** A member is “in service” if the member has not terminated employment and is receiving compensation for rendering services, including through the use of the member’s own accrued leave time.
9. **Mental or physical condition.** A “mental or physical condition” is a condition affecting the member mentally or physically that is medically diagnosable.
10. **Permanent.** “Permanent” means:
- A. the incapacity is likely to continue for the foreseeable future;
 - B. the member has reasonably pursued appropriate treatment options; and
 - C. those treatment options have not resolved the incapacity.
11. **Reasonable accommodation.** “Reasonable accommodation” has the same meaning as that phrase does under the federal Americans with Disabilities Act, 42 U.S.C. § 12111(9).
12. **Reasonable commuting distance.** “Reasonable commuting distance” means a distance of less than 60 miles that would be reasonable for the member to commute based on the facts and circumstances, including the cost of commuting, the compensation of the employment position, the member’s commuting history, and typical commuting distances where the member resides.
13. **Substantially gainful activity.** “Substantially gainful activity” means any combination of activities, tasks, or efforts, with any reasonable accommodations, for which the member is qualified by training, education, or experience that would generate annual income in an amount in excess of the substantially gainful activity amount in the labor market for the member’s state of residence.
14. **Substantially gainful activity amount.** “Substantially gainful activity amount” means \$20,000 or 80% of the member’s average final compensation, whichever is greater, adjusted by any cost of living adjustments required by statute or rule.

SECTION 2. INITIAL ELIGIBILITY

1. Standards. A member is eligible for disability retirement benefits if the member has a permanent incapacity while in service, subject to the following additional requirements where applicable:
- A. If the member had less than five years of continuous creditable service as of the member’s last date in service, the incapacity must not result from a condition that existed before membership unless the incapacity has been caused or substantially aggravated by an injury or accident received in the line of duty from events or circumstances not usually encountered within the scope of the member’s employment.

- (1) Events or circumstances are usually encountered within the scope of the member's employment if they are described in the job description for the member's position or are otherwise typically encountered one or more times during the career of a person in a position like the member's.
 - B. If at least two years have passed since the member's date of incapacity, the member must be unable to engage in any substantially gainful activity due to functional limitations caused by the mental or physical condition.
2. Use of the medical review service provider and independent medical examinations.
 - A. The permanent incapacity may be revealed by an independent medical examination (IME), but the Chief Executive Officer may grant benefits without an IME and, if qualification is clear to a lay person, may grant benefits without use of the medical review service provider.
 - B. The Chief Executive Officer may deny benefits without use of the medical review service provider or an independent medical examination on non-medical grounds, including:
 - (1) The applicant was not in service at the time the applicant claims the incapacity began;
 - (2) The applicant is in an age-restricted plan and performed the essential functions of the employment position after normal retirement age;
 - (3) The claimed incapacity has existed for more than two years and the applicant has earned more than the substantially gainful activity amount in one or more years during this time;
 - (4) The applicant is uncooperative or unresponsive in providing essential information needed to process the application; or
 - (5) The applicant has already been denied benefits on the same condition and last date in service.
 - C. The Chief Executive Officer may not otherwise deny benefits without an IME unless the IME is waived by the applicant.
3. Determination of inability to perform the essential functions of the employment position with reasonable accommodation.
 - A. A member is not unable to perform the essential functions of the employment position if the member could do so with one or more reasonable accommodations.
 - B. When a member is incapacitated by more than one mental or physical condition, any permanent functional limitations caused by the conditions will be considered in totality as part of a whole-person approach to determine whether the limitations make the member unable to perform the essential functions of the employment position with reasonable accommodation.

- C. If MainePERS determines that one or more reasonable accommodations would more likely than not allow a member to perform the essential functions of the employment position, MainePERS will communicate the reasonable accommodations in writing to the member and the employer prior to issuing a decision on eligibility for disability retirement, including, where applicable, a request to the employer that it provide the identified reasonable accommodations.
- (1) Employer acceptance or refusal. The employer shall inform MainePERS whether it will provide the requested reasonable accommodations. If the employer refuses because the member no longer is employed, the employer shall inform MainePERS whether the employer offered or would have provided the reasonable accommodations if requested during employment. MainePERS will communicate any information received from the employer to the member, and the member will be provided an opportunity to rebut the employer's information.
 - (2) Member acceptance or refusal. If the member has not terminated employment and the employer will provide the reasonable accommodations, the member shall inform MainePERS whether the member will attempt to perform the essential functions of the employment position with the reasonable accommodations. The member may provide evidence to MainePERS that the employer has refused to make the reasonable accommodations or that they would not permit the member to perform the essential functions of the employment position.
 - (3) Final determination. After employer or member refusal or the failure of a good faith attempt to perform the essential functions of the employment position with reasonable accommodation, MainePERS shall make a decision on the member's application for disability retirement.
4. Application of disabled veteran presumption. A member seeking application of the disabled veteran presumption pursuant to 5 M.R.S. §§ 17924 or 18524, based on a determination of individual unemployability must authorize release of information from the U.S. Department of Veterans Affairs as requested by MainePERS in addition to cooperating in providing other essential information needed to process the disability retirement application.

SECTION 3. REVIEWS FOR CONTINUING ELIGIBILITY

1. Scheduling of reviews. A disability retiree may be reviewed for continuing eligibility for disability retirement benefits in the following circumstances:
 - A. The retiree has not yet had a determination that they are unable to engage in any substantially gainful activity for which they are qualified by training, education or experience and at least two years have passed since the date of the determination that the retiree is eligible for disability retirement benefits; or
 - B. Earnings or other information about a retiree's activities received by MainePERS show that the retiree may have capacity to engage in substantial gainful activity and at least one year has passed since any previous review.
2. Cooperation with review. A retiree subject to review under subsection 1 must cooperate in providing information to MainePERS, including providing medical records and releases permitting health care providers to provide medical records. An unjustified failure to cooperate

will result in the discontinuance of benefits. If the failure continues for one year, it will result in permanent cessation of benefits.

3. Standard on review. The retiree's eligibility for retirement benefits continues if the retiree is unable to engage in any substantially gainful activity due to functional limitations caused by the mental or physical conditions that were the basis for the initial eligibility determination or by one or more new conditions that arose from the conditions that were the basis for the initial eligibility determination.
4. Rebuttable presumption. A retiree is presumed to be no longer eligible for retirement benefits if the retiree has earned more than the substantially gainful activity amount in one or more years while receiving disability retirement benefits. This presumption may be rebutted by information showing that the standard in subsection 3 is met notwithstanding these earnings.
5. Use of the medical review service provider and independent medical examinations.
 - A. The Chief Executive Officer may determine that the retiree continues to be eligible without an IME and, if continuing eligibility is clear to a lay person, may determine that the retiree continues to be eligible without use of the medical review service provider.
 - B. The Chief Executive Officer may not determine that the retiree is no longer eligible for retirement benefits without an IME unless the IME is waived by the retiree.
 - C. IMEs under this Section are subject to the same reimbursement and waiver requirements as IMEs under Section 2.

STATUTORY AUTHORITY:
5 M.R.S. §§ 17103(4)

BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was noticed on December 21, 2022. A public hearing was held on January 12, 2023. One member of the public provided oral comments at the public hearing, and the same member of the public submitted written comments prior to the January 23, 2023 comment deadline. No other comments were received.

MainePERS has not previously had a single rule that addresses eligibility for disability retirement benefits. There are existing rules that address certain aspects of eligibility, and otherwise the System has followed the statutes as interpreted by court and Board decisions as well as System policies and practices. The proposed rule sets forth the standards and processes for determining eligibility pursuant to statutory law at both the initial application stage and upon review for continued eligibility. The proposed rule also addresses the determinations of whether a disability retirement recipient is unable to engage in any substantially gainful activity, and whether a disability applicant is unable to perform the essential functions of the employment position with reasonable accommodation. Those matters are currently addressed in Rule Chapter 507 and Rule Chapter 509, respectively. Staff believes including these aspects of the disability retirement program in the new rule addressing disability retirement benefits provides a more comprehensive rule. Rule Chapter 507 and Rule Chapter 509 are proposed for repeal with the adoption of this new disability retirement benefits rule.

One member of the public¹ made several recommendations regarding the proposed new rule. First, the commenter opined that the last sentence in the definition of “(c)onsistent with the persons’ training, education, or experience” should be deleted. Part of the continued eligibility determination when a disability retirement benefit recipient is reviewed is whether they can perform substantially gainful activity that would generate annual income in excess of the substantially gainful activity amount. The definition provided in the rule acknowledges that, although the individual has training, education or experience in a specific area, some additional training may be necessary to perform the activity. This is consistent with existing Rule Chapter 507 and the Superior Court’s decision in *Davidson vs. Maine State Retirement System*, 2000 Me. Super. LEXIS 115, which provide that transferrable skills and knowledge can make a position “(c)onsistent with the persons’ training, education, or experience” notwithstanding the need for additional position-specific training. For this reason, staff does not believe that any additional change to this section of the proposed rule is necessary in response to this comment, and the Board concurs.

Second, the commenter opined that the definition of “earnings” should be clarified to include only income generated by “...the retiree’s own productive work activity.” Further, that assuming that net rental income from real estate derives from work activity performed by the retiree is unfair. In oral comments, the commenter also opined that “income received in return for...goods...” should not be considered income. In response to these comments, staff agrees that the reference to goods and the suggestion of a presumption on real estate income should be removed. Staff recommends that these changes be made to the proposed definition of earnings, and the Board concurs.

Third, the commenter opined that the definition of “substantially gainful activity” is too broad and that MainePERS should consider “medical and vocational evidence in determining whether the beneficiary has the physical, mental, and vocational capabilities to perform substantially gainful activity.” Staff believes the proposed definition is consistent with statute and closely aligns with current Rule Chapter 507 and notes that evidence of the sort identified by the commenter may be considered by MainePERS under the proposed rule. Staff does not recommend any changes to the proposed rule based on this comment, and the Board concurs.

¹ Sarah Walton, Esq., Winthrop

Fourth, the commenter opined that the term “whole-person approach” as used in the proposed rule should be defined. Staff believes that the proposed language in the rule is clear in that it requires that conditions and resulting functional limitations be considered “in totality” and no change is recommended to address this comment. The Board concurs.

Fifth, the commenter opined that the proposed rule should include additional information about the application of the disabled veteran presumption. In response to this comment, staff notes that the presumption is adequately set forth in statute and recommends amending the rule language to include the applicable statutory cites. The Board concurs with this change.

Sixth, the commenter suggests reconsideration of the definition of “earnings” as it relates to review for continuing eligibility. Changes to the definition of “earnings” are discussed above. The commenter also suggests a review of MainePERS’ practices regarding earnings review. This is outside of the scope of the current rulemaking. Staff recommends no changes to the proposed rule based on this comment, and the Board concurs.

Seventh, the commenter requests that the proposed rule be expanded to include additional sections regarding termination of benefits and the actively seeking work program. These topics are beyond the scope of the subject of this rule, eligibility for disability retirement. Staff recommends no changes in response to this comment, and the Board concurs.

In summary, based on consideration of the comments received, staff recommends changes to Section 1(4) to amend the definition of “earnings,” and Section 2(4) to insert statutory cites. The Board concurs with these recommendations.

At the Board’s regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to adopt the amended rule and its basis statement.
Voted _____.

94-411 MAINE STATE RETIREMENT SYSTEM

Chapter 507 DETERMINATION OF INABILITY TO ENGAGE IN SUBSTANTIALLY GAINFUL ACTIVITY

SUMMARY: The purpose of this rule is to specify the standards and definitions to be applied in determining under 5 MRSA §§ 17907(2)(B), 17929(2)(B)(1), and 18507(2)(B) and 18529 (2) (B) (1) whether a disability retirement recipient is "unable to engage in any substantially gainful activity."

1. Standards and Related Definitions for Determination.

After the expiration of an initial period as specified by statute, disability benefit recipients continue to receive disability benefits only if they meet certain statutory requirements. One requirement is that the person be "unable to engage in any substantially gainful activity." The following standards govern the determination of a person's inability to engage in any substantially gainful activity under 5 MRSA §§ 17907(2)(B), 17929(2)(B)(1), and §§ 18507(2)(B) and 18529(2)(B)(1).

- A. A person shall be determined to be unable to engage in any substantially gainful activity if the person lacks the physical or mental capacity, due to the incapacity for which the person was awarded disability retirement benefits, to perform or participate in any activity or activities, tasks or efforts that are or could be performed in such a manner as to generate remuneration in an amount which is consistent with average final compensation.
- (1) For purposes of 5 MRSA §§ 17929(2)(B)(1), 18529(2)(B)(1) and this rule, "consistent with average final compensation" means an amount that, on an annual basis, is at least 80% of the person's average final compensation at retirement adjusted as if §17806 or §18407, whichever is appropriate, had been applicable.
 - (2) If inability to engage in any substantially gainful activity is being determined under §17907(2)(B) or §18507(2)(B), "substantially gainful activity" has the same meaning as "substantially gainful activity which is consistent with average final compensation as found in §17929(2)(B)(1) or §18529(2)(B)(1) respectively.
 - (3) Information about the labor market, including information contained in publications of the state and federal Departments of Labor, may be used when consideration of the nature of an employment activity or consideration of the salary level of a particular employment activity is needed. Such information on salary levels, if not current

at the time it is used, should be adjusted by the same inflation factor(s) applied to the disability recipient's average final compensation in subparagraph 1(A)(1) above.

- (4) The person is not unable to engage in any substantially gainful activity when the person is engaged in any activity or activities, whether or not remuneration-generating, that demonstrate an ability to engage in substantially gainful activity.
 - (5) The person is not unable to engage in any substantially gainful activity when the person has the physical or mental capacity to engage in any substantially gainful activity, regardless of whether or not the person does in fact so engage.
 - (6) If inability to engage in substantially gainful activity is being determined under 17929(2)(B)(1) or 18259(2)(B)(1), the person is not unable to engage in substantially gainful activity if an employer could make reasonable job modifications that would allow the person to engage in substantially gainful activity. "Job modification" means changes to any aspect of work that inhibits a person's ability due to physical or mental incapacity to perform the duties of a job including but not limited to modifications in the usual job tasks or duties, changes in the way a particular task or duty is usually carried out, changes to the physical environment, provision or allowed use of adaptive equipment and change in the job conditions.
- B. If inability to engage in substantially gainful activity is being determined under §17907(2)(B) or §18507(2)(B), the person must also be qualified by training, education or experience to perform the activities, tasks or efforts that comprise the activity or activities against which the person's inability is being evaluated.
- (1) "Qualified" means possessing, for purposes of meeting general requirements for employment, including self-employment or other gainful activity, either appropriate training in relevant skills and knowledge, including those that are transferable; or appropriate type and level of education; or appropriate experience.
 - (2) Such possession is established whenever there is a reasonable expectation that a person with this particular training, education or experience should be able to meet such general requirements.
- C. If the person's inability to engage in substantially gainful activity is being determined under §17929(2)(B)(1) or §18529(2)(B)(1), the activity or

activities against which the person's inability is being evaluated must be consistent with the person's training, education or experience.

- (1) "Consistent with" means that the activity or activities must bear a logical relationship to the person's previous training, education or experience.
- (2) Such a relationship is demonstrated by the possession of appropriate training in relevant skills and knowledge, including those that are transferable; or appropriate type and level of education; or appropriate experience.

2. Application of Standards.

- A. The recipient of disability benefits has the ultimate burden of demonstrating that s/he is unable to engage in substantially gainful activity and must make the demonstration of inability against the above standards.
- B. When a recipient of disability benefits has at any time since the effective date of disability retirement been engaged in any activity or activities that produces or has produced remuneration that is consistent with the person's average final compensation, a rebuttable presumption is established that all of the applicable standards set forth in Section 1 have been met.
- C. When a determination is made by the System that job modification would allow a recipient of disability benefits to engage in substantial gainful activity, the System has the initial burden to identify generally what types of job modifications would allow the member to engage in substantially gainful activity. This will be communicated in writing to the disability recipient prior to or at the time that a decision on the member's ability to engage in substantially gainful activity is made. The burden then shifts to the member disputing this determination to refute that such modifications would allow the person to engage in substantially gainful activity.

EFFECTIVE DATE OF EMERGENCY RULE: July 9, 1993

EFFECTIVE DATE OF PERMANENT RULE: September 28, 1993

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

NON-SUBSTANTIVE CORRECTIONS: October 3, 1996 - minor format and spelling.

AMENDED: June 7, 1997 - Section 1(A)((6)) and 2(C) added.

BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was developed through a consensus-based process in accordance with 5 M.R.S. § 8051-B and noticed on December 21, 2022. A public hearing was held on January 12, 2023. No members of the public provided oral comments at the public hearing, and no members of the public submitted written comments prior to the January 23, 2023 comment deadline.

The proposal was to repeal the rule. The rule addresses the determination of whether a disability retirement recipient is unable to engage in any substantially gainful activity. This subject is addressed in new Rule Chapter 506, so this rule is no longer necessary.

At the Board's regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to repeal the rule and to adopt the basis statement. Voted _____.

94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chapter 509: DETERMINATION OF INABILITY TO PERFORM THE ESSENTIAL FUNCTIONS OF THE EMPLOYMENT POSITION

Summary: The purpose of this rule is to specify the standard and definitions to be applied under 5 MRSA §§ 17921 and 18521 in determining whether a disability applicant is unable to perform the functions of the employment position with reasonable accomodation.

SECTION 1. Standard and Related Definitions

A disability benefit applicant must meet certain statutory requirements under 5 MRSA §§ 17921 and 18521 in order to be eligible to receive disability retirement benefits. One of these requirements is that the applicant must demonstrate that the applicant is unable to perform the essential functions of the employment position with reasonable accomodation. The following standard and definitions govern the determination of whether this requirement is met.

1. A member shall not be considered incapacitated if the employer agrees to make job modifications as defined below that will enable the member to perform the functions of the employment position.
 - A. For these purposes, "job modification" means a change or changes to the member's work situation that alters any aspect(s) that, because of the member's physical or mental incapacity, inhibit ability to perform the functions of the employment position. "Job modification" includes but is not limited to modification in the job tasks or functions, change in the way a particular task or function is carried out, change to the physical environment, provision of adaptive equipment, and change in the job conditions.
 - B. "Employment position" means the position in which the member is employed at the time the member becomes incapacitated or this position as modified by the member's employer in accordance with (1) above, or a position that is made available to the member by the member's employer that is of comparable stature and equal or greater compensation and benefits to the position in which the member is employed at the time the member becomes incapacitated and whose location is of a reasonable commuting distance and does not require the member to relocate their residence.

SECTION 2. Application of Standard

1. The member who is an applicant for disability retirement benefits has the ultimate burden of demonstrating inability to perform the essential functions of the employment position with reasonable accomodation.
2. When a determination is made by the System that job modification would enable the member to perform the functions of the employment position, the System has the initial

burden to determine generally the job modifications that would enable the member to perform the functions of the employment position. This will be communicated in writing to the applicant and the applicant's employer prior to or at the time that a decision on eligibility for disability retirement benefits is made. If the member disputes the determination, the member then has the burden to demonstrate either that the member has requested the employer to provide the job modifications determined by the System and that the employer has refused to make these job modifications or that the modifications identified by the System would not allow the member to perform the functions of the employment position.

3. In the event that the employer refuses to make the requested modifications, a member must also demonstrate that they have requested the employer to provide a position that the member's disability does not prevent them from performing and that is of comparable stature and equal or greater compensation and benefits to the member's employment position at the time the incapacity arose and that the employer has refused to offer such a position.
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STATUTORY AUTHORITY:

5 MRS §§ 17103(4), 17921 and 18521

EFFECTIVE DATE:

June 7, 1997 – filing 97-199

September 20, 2022 – filing 2022-187

BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was developed through a consensus-based process in accordance with 5 M.R.S. § 8051-B and noticed on December 21, 2022. A public hearing was held on January 12, 2023. No members of the public provided oral comments at the public hearing, and no members of the public submitted written comments prior to the January 23, 2023 comment deadline.

The proposal was to repeal the rule. This rule addresses the determination of whether a disability applicant is unable to perform the essential functions of the employment position with reasonable accommodation. This subject is addressed in new Rule Chapter 506, so this rule is no longer necessary.

At the Board's regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to repeal the rule and to adopt the basis statement. Voted _____.

94-411 MAINE ~~STATE PUBLIC EMPLOYEES~~ RETIREMENT SYSTEM

Chapter 510: REDUCTION OF DISABILITY RETIREMENT BENEFITS BECAUSE OF LUMP-SUM SETTLEMENTS OF BENEFITS PAYABLE UNDER THE WORKERS' COMPENSATION OR SIMILAR LAW OR THE UNITED STATES SOCIAL SECURITY ACT

SUMMARY: This chapter sets forth the methodology by which disability retirement benefits ~~under the Maine Legislative Retirement System, Maine Judicial Retirement System and the Maine State Retirement System~~ are reduced when a beneficiary of such benefits receives a lump-sum settlement of benefits payable under the workers' compensation or similar law or the United States Social Security Act.

SECTION 1. DEFINITIONS

1. **Accumulated Contributions.** The term “accumulated contributions” as used in this Chapter means the amount of “accumulated contributions” calculated pursuant to the provisions of the applicable Retirement System plan, as of the effective date of the recipient’s entitlement to Retirement System disability retirement benefits.
2. **Actuarial Equivalent of Accumulated Contributions.** “Actuarial Equivalent of Accumulated Contributions” as used in this Chapter means the recipient’s accumulated contributions at the time of his or her disability retirement divided by the “annuity factor for recipient’s age at retirement” as calculated pursuant to Section 5.2, and then converted to a monthly amount by dividing by twelve.
3. **Actuarial Equivalent of the Lump-Sum Settlement.** “Actuarial Equivalent of the Lump Sum Settlement” as used in this Chapter means the amount of the “lump-sum settlement” divided by the “annuity factor for recipient’s age at effective date of lump-sum settlement” calculated pursuant to Section 5.3, and then converted to a monthly amount by dividing by twelve.
4. **Average Annual Earnings.** “Average Annual Earnings” means the total of the person’s average final compensation plus other wages and earnings from employment for the calendar year in which the person has the highest total of other wages and earnings from employment during the 5 years immediately preceding the year in which the person became disabled.
45. **Average Final Compensation.** “Average Final Compensation” as used in this Chapter means the amount of “average final compensation” calculated pursuant to the provisions of the applicable Retirement System plan, as of the effective date of the recipient’s entitlement to Retirement System disability retirement benefits.
56. **Initial Disability Retirement Benefit.** “Initial disability retirement benefit” as used in this Chapter means the monthly disability retirement benefit, not reduced because of disability benefits received under other laws, payable to the recipient as of the effective date of his or her entitlement to Retirement System plan disability retirement benefits, calculated pursuant to the applicable Retirement System plan provisions.

- 67. Lump-Sum Balance.** “Lump-Sum Balance” as used in this Chapter in a given month means the sum of the lump-sum settlement and interest for that month and all prior months subject to reduction pursuant to this Chapter less the reduction amount determined pursuant to Section 4.1 for that month and all prior months subject to reduction pursuant to this Chapter.
- 78. Lump-Sum Settlement.** “Lump-sum settlement” as used in this Chapter means the amount paid or to be paid pursuant to a settlement agreement under the workers’ compensation law and/or similar law and/or the United States Social Security Act for the same disability for which Retirement System plan disability retirement benefits are awarded, but not including any part of the lump-sum settlement amount attributable to vocational rehabilitation, attorneys’, physicians’, nurses’, hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B for permanent impairment or under Title 39-A, section 212, subsection 3 for specific loss benefits. “Lump-sum settlement” includes amounts paid or to be paid under the United States Social Security Act only if the employment for which Retirement System creditable service with the employer is allowed was also covered under that Act at the date of disability retirement.
- 89. Lump-Sum Settlement Agreement.** A “Lump-Sum Settlement Agreement” as used in this Chapter is an agreement, signed or otherwise approved by the approving authority, describing payment of the lump-sum settlement.
- 910. Retirement System Plan.** “Retirement System plan” as used in this Chapter means a benefit plan of the Maine Legislative Retirement System, Maine Judicial Retirement System, or the Maine State Retirement System. Benefit plans of the Maine State Retirement System include benefits for eligible state employees, teachers, and Participating Local District (“PLD”) members.

SECTION 2. APPLICABILITY

This Chapter applies to any disability retirement benefit recipient who enters into a lump-sum settlement agreement or otherwise receives a lump sum settlement under the workers’ compensation or similar law or the United States Social Security Act for the same disability for which disability retirement benefits were awarded pursuant to a Retirement System plan.

SECTION 3. MAKING THE REDUCTION

1. When a disability retirement benefit recipient enters into a lump-sum settlement agreement, the monthly Retirement System disability retirement benefit shall be reduced by an amount determined pursuant to the provisions of this Chapter.
2. The reduction amount determined pursuant to the provisions of this Chapter shall be deducted from Retirement System disability retirement benefits payable to the recipient, beginning the first day of the month following the effective date of the lump-sum settlement. For purposes of this Chapter, the effective date of the lump-sum settlement is the date that the settlement agreement is signed by the approving authority.

3. That same reduction amount determined pursuant to the provisions of this Chapter shall continue to be deducted from the monthly disability retirement benefit otherwise payable for the length of time that the recipient receives a Retirement System disability retirement benefit. If, for periods of time prior to the effective date of the lump-sum settlement during which Retirement System disability retirement benefits are payable to the recipient, the recipient is also paid benefits under the workers' compensation or similar law or the United States Social Security Act, subject to the same limitations described in Section 1.7, then the recipient's disability retirement benefits shall also be reduced by amounts equal to those benefits unless the applicable statute bars any reduction or requires a smaller reduction.
4.
 - A. Notwithstanding Section 3.3, reductions pursuant to this Chapter for a recipient who continues to be entitled to receive disability retirement benefits pursuant to a Retirement System plan that provides for cost-of-living adjustments ("COLAs") shall cease when the sum of the reduction amount equals the amount of the lump-sum settlement plus monthly interest on the lump-sum balance calculated at the annual rate of four percent (4%);
 - B. Notwithstanding Section 3.3, reductions pursuant to this Chapter for a recipient pursuant to a Retirement System plan that does not provide for COLAs shall cease under the same circumstances as for Section 3.4.A except that monthly interest on the lump-sum balance shall be calculated at the annual rate of six percent (6%).
5. To determine when the sum of the reduction amounts will equal the lump-sum settlement plus interest calculated monthly at the annual rate specified in Section 3.4.A and 3.4.B as applicable:
 - A. Calculate the interest for the first month subject to reduction by multiplying the lump-sum settlement by the specified annual interest rate and then dividing the product by 12.
 - B. Determine the lump-sum balance in the given month.
 - C. Calculate the interest for each month after the first month subject to reduction by multiplying the lump-sum balance for the previous month by the specified annual interest rate and then dividing the product by 12.
6. The month in which the lump-sum balance is zero is the last month of disability retirement benefits that will be reduced pursuant to Sections 3.4.A and 3.4.B.
7. If there is no month in which the lump-sum balance is zero, then the last month of disability retirement benefits that will be reduced pursuant to Sections 3.4.A and 3.4.B is the first month in which the lump-sum balance is a negative number. In such case, the reduction amount required for the last month shall be equal to the lump-sum balance for the previous month plus interest.
8. Notwithstanding Sections 3.3, 3.4 and 3.5, the reduction amount shall be recalculated pursuant to the provisions of this Chapter if the recipient enters into a subsequent lump-sum settlement agreement.

9. The amount payable to the disability retirement recipient after the reduction amount is applied will be adjusted by any cost-of-living adjustments (“COLAs”) according to the provisions of the applicable Retirement System plan.

SECTION 4. DETERMINING THE REDUCTION AMOUNT, IF ANY

1. The reduction amount that is to be applied to the recipient’s monthly disability retirement benefit is determined as follows:

A. For members of the State Employee and Teacher, Legislative and Judicial Retirement Program, by subtracting the figure representing 80% of average final compensation, converted to a monthly amount by dividing by twelve, from the amount represented by the sum of the initial disability retirement benefit and actuarial equivalent of the lump sum settlement.

B. For members of the Participating Local District Retirement Program, by subtracting the figure representing 80% of average annual earnings, converted to a monthly amount by dividing by twelve, from the amount represented by the sum of the initial disability retirement benefit and actuarial equivalent of the lump sum settlement.

2. If the result obtained in Section 4.1 is zero or a negative number, then no reduction is applied to the monthly disability retirement benefits.
3. If the reduction amount calculated in Section 4.1 causes the initial disability retirement benefit to be reduced to an amount that is less than the “actuarial equivalent of accumulated contributions”, then the full reduction amount calculated in Section 4.1 may not be applied. Instead, the recipient shall receive the “actuarial equivalent of accumulated contributions” in lieu of the amount obtained by applying the full reduction described in section 4.1.

SECTION 5. DETERMINING THE ANNUITY FACTORS TO BE USED FOR SECTION 4

1. **Selecting the Applicable Table.** To determine the “annuity factor at age of retirement” or the “annuity factor at age at effective date of lump-sum settlement,” use Table AA of Chapter 303.

NOTE: As of the effective date of this rule, judicial retirement, legislative retirement, and Maine State Retirement System plans for state employees and teachers all include COLAs. Some Participating Local District (“PLD”) plans include COLAs and others do not.

2. **Determining the “Annuity Factor for Recipient’s Age at Retirement.”** To determine the “annuity factor for recipient’s age at retirement,” use the applicable Table to locate the annuity factor that corresponds to the recipient’s attained age as of the first day of the first month for which he or she received Retirement System plan disability benefits. If the recipient’s previous birthday was six months or more prior to the first day of the first month for which he or she received Retirement System plan disability retirement benefits, then use the recipient’s age at his or her next birthday to locate the applicable annuity factor.

3. **Determining the “Annuity Factor for Recipient’s Age at Effective Date of Lump-Sum Settlement.** To determine the “annuity factor for recipient’s age at effective date of lump-sum settlement, use the applicable Table to locate the annuity factor that corresponds to the recipient’s attained age as of the effective date of the lump-sum settlement. If the recipient’s previous birthday was six months or more prior to the effective date of the lump-sum settlement, then use the recipient’s age at his or her next birthday to locate the applicable annuity factor.

SECTION 6. DETERMINING THE AMOUNT OF THE “LUMP-SUM SETTLEMENT” IF THE SETTLEMENT PROVIDES FOR PAYMENT IN A MONTH OR MONTHS FOLLOWING THE DATE THAT THE SETTLEMENT AGREEMENT IS SIGNED BY THE APPROVING AUTHORITY

1. If the lump-sum settlement is to be paid in a single payment but at a date subsequent to the effective date of the settlement agreement, then the single settlement payment must be converted into a single present value amount using the methodology of Section 6.5.B. The resulting present value shall be used as the amount of the lump-sum settlement for purposes of this Chapter.
2. If the lump-sum settlement is to be paid not as a single settlement payment, but instead is to be paid in installments, then the installment amounts must be converted into a single present value amount pursuant to the provisions of this Section. The resulting single present value shall be used as the “lump-sum settlement” for purposes of this Chapter.
3. The provisions of this Chapter do not apply if all of the installments to be paid pursuant to the lump-sum settlement agreement are to be paid in scheduled increments such that the total paid each month is less than or equal to the recipient’s disability retirement benefit for that month in the absence of any reduction because of benefits payable under the workers’ compensation or similar law or the United States Social Security Act. Instead, the recipient’s disability retirement benefits shall be reduced in the same manner as if there had been no lump-sum settlement agreement.
4. Any part of the lump-sum settlement payment amounts attributable to vocational rehabilitation, attorneys’ fees, physicians, nurses, hospital, medical, surgical or related fees or charges of any amount paid or payable under former Title 39, section 56-B for permanent impairment or under Title 39-A, section 212, subsection 3 for specific loss benefits shall not be included in any of the payment amounts for purposes of this Section.
5. The single present value of the settlement paid in installments shall be calculated as follows:
 - A. Determine the amount of the first installment payment if the first payment is scheduled to be issued in the same month or in the month immediately following the month that the settlement agreement is signed or otherwise approved by the approving authority.
 - B. To determine the present value of any payment to be issued in a subsequent month, except for any installment amount to be paid for a “term certain and life thereafter,” apply an effective (“real”) interest rate of 7.75% per year.

- C. Determine the present value, using an effective (“real”) interest rate of 7.75% per year of any settlement installment amount to be paid for a certain term of years (“term certain”) and life thereafter as follows:
- (1) Add the recipient’s age as used in Section 5.3 to the number of years in the term certain.
 - (2) Using the sum obtained in Section 6.5.C.1, locate on Table X the corresponding figure in Column B.
 - (3) Divide the amount obtained in Section 6.5.C.2 by the figure in Column A in Table X corresponding to the recipient’s age as used in Section 5.3.
 - (4) Add the result in Section 6.5.C.3 to the annuity factor on Table Y corresponding to the number of months in the term certain.
 - (5) Multiply the result obtained in Section 6.5.C.4 by the installment amount to be paid annually for the term certain and life thereafter.
- D. Add the total results obtained in Sections 6.5.A, 6.5.B and 6.5.C.A to obtain the single value amount to be used as the amount of the “lump-sum settlement” for purposes of this Chapter.

The attached TABLES are an integral part of this Chapter:

TABLE ‘X’: Annuity Factors for use with installment settlement

TABLE ‘Y’: Annuity Factors (for installment settlements) corresponding with the number of months in term certain.

APA Office Note: the tables are available from the Maine State Public Employees Retirement System.

STATUTORY AUTHORITY: 3 M.R.S.A. § 853; 4 M.R.S.A. § 1353(6); 5 M.R.S.A. §§ ~~17906(2);~~ 17930(4); ~~18506(2);~~ and 18530(4); ~~1122(5-A) and 1122(6);~~

EFFECTIVE DATE

July 6, 1999

AMENDED:

June 21, 2006 – filing 2006-269

BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was developed through a consensus-based process in accordance with 5 M.R.S. § 8051-B and noticed on December 21, 2022. A public hearing was held on January 12, 2023. No members of the public provided oral comments at the public hearing, and no members of the public submitted written comments prior to the January 23, 2023 comment deadline.

This rule sets forth the methodology for determining the offset to disability retirement benefits when a recipient receives a lump-sum settlement of benefits under the workers' compensation or similar law or the United States Social Security Act. The proposed amendments align the rule with statute, where there is a distinction in methodology between the State-funded and PLD plans that is not reflected in the current rule. MainePERS has been applying the statutory distinction in its operations.

At the Board's regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to adopt the amended rule and its basis statement. Voted _____.

94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chapter 511: STANDARDS FOR ACTIVELY SEEKING WORK

SUMMARY: This Chapter sets out the standards and definitions to be applied in determining under 5 M.R.S.A. §§ 17929(2)(B)(1) and 18529(2)(B)(1) whether a disability retirement benefit recipient is actively seeking work.

SECTION 1. PURPOSE

The purpose of this Chapter is to set out the standards of “actively seeking work” for a person who was awarded disability retirement benefits and for whom a final determination has been made that the person does not meet the requirements for the continuation of disability retirement benefits.

SECTION 2. DEFINITIONS

1. **Actively seeking work status.** “Actively seeking work status” means that a final determination has been made that the person no longer meets the requirements for the continuation of disability retirement benefits and that the person is able to engage in substantially gainful activity. In this status, disability benefits are continued until the person has secured substantially gainful activity but only so long as the person is actively seeking work.
2. **Substantially gainful activity earnings level.** “Substantially gainful activity earnings level” means annual earnings that exceed the greater of \$20,000 or 80% of average final compensation at disability retirement, each adjusted by cost of living adjustments if applicable to the member’s retirement plan.

SECTION 3. STANDARDS

1. ___ A person in actively seeking work status must:
 - ~~1~~A. Register with the Maine Department of Labor Career Center;
 - ~~2~~B. Participate in all job readiness or job seeking activities recommended by the Career Center;
 - ~~3~~C. Participate at least annually in resume preparation and interviewing skills workshops offered by the Career Center and submit an updated resume to the Career Center;
 - ~~4~~D. Maintain a current signed record release authorization that allows MainePERS to request and receive information from the Career Center and verify any other information submitted pursuant to this rule;

5E. Apply in person or online for at least eight jobs each month with employers who are hiring or otherwise accepting applications, at least four of which must result in written acknowledgement of receipt of the application; and

6F. Do all other activities that a reasonably prudent non-incapacitated individual would do to secure work.

2. A person who has not secured employment at or above the substantially gainful activity earnings level after five years in actively seeking work status is presumed to not have been actively seeking work notwithstanding compliance with subsection 1. This presumption may be rebutted by information showing that the failure to secure employment at or above the substantially gainful activity earnings level was beyond the person's control. For persons in actively seeing work status on December 31, 2022, the five-year period begins to run on that date.

SECTION 4. DOCUMENTING COMPLIANCE WITH STANDARDS

A person in actively seeking work status must demonstrate compliance with the standards set forth in Section 3 by submitting, so it is received by the system by the 5th of each month, an accurate, complete and signed report of the following information on forms provided by the system:

1. Verification of eight job applications, including date of submission, employer name and address, method of contact, and a short statement of the result, and a copy of any internet posting, advertisement or Career Center printout that led to submission of the application;
2. A copy of four written acknowledgements of receipt of job applications detailed under subsection 1, which written confirmation may include an email response, a computer-generated acknowledgement, a letter, or a signed system employer contact form;
3. Information pertaining to any job offer that the person has received and refused, including a detailed explanation for any such refusal;
4. Verification of the source and amount of any earnings, remuneration or other compensation from any employment, self-employment, commission sales, or other income for the previous month;
5. Verification of any change in name, address or telephone number; and
6. In the report submitted in January of each year, verification of any classes completed with the Career Center in the past year and verification that the person has submitted an updated resume to the Career Center.

SECTION 5. SUSPENSION OR TERMINATION OF BENEFITS

1. For any month during the calendar year that the person does not meet all the required standards, the retirement system will suspend the payment of benefits subject to 5 M.R.S. §17105-A. Such a suspension in benefits will occur in the month following the issuance of a written decision that the standards have not been met. If the person subsequently resumes

compliance, the benefits will resume. Such resumption in benefits will occur in the month following the month for which the standards are again met. There will be no payment of disability retirement benefits for the month or months for which benefits were suspended under this subsection.

2. If the person fails to meet the standard for a total of any sequential or non-sequential three months in any 12-month period, the retirement system will terminate the payment of benefits.
3. If the person refuses a job that is consistent with the person's training, education, and experience that would generate an income equal to or greater than the member's substantially gainful activity earnings level, the retirement system will terminate the payment of benefits as of the month following the month that the person refused the job offer.
4. A disability retirement benefit recipient in actively seeking work status who is incarcerated shall be deemed unable to actively seek work, and the payment of disability retirement benefits will be suspended during the period of incarceration.
5. For any person who secures a job or engages in activity that generates an income equal to or greater than that member's substantially gainful activity earnings level, the retirement system will terminate the payment of benefits as of the month following the month the person accepts or engages in the job or activity.

STATUTORY AUTHORITY:

5 M.R.S. §§ 17103(4), 17929(2)(B)(1) and 18529(2)(B)(1)

EFFECTIVE DATE:

April 30, 2007 – filing 2007-152

AMENDED:

April 14, 2020 – Section 8 added, filing 2020-093 (EMERGENCY)

July 18, 2020 – Section 8, filing 2020-157

REPEALED AND REPLACED:

December 8, 2021 – filing 2021-241

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BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was developed through a consensus-based process in accordance with 5 M.R.S. § 8051-B and noticed on December 21, 2022. A public hearing was held on January 12, 2023. No members of the public provided oral comments at the public hearing, and no members of the public submitted written comments prior to the January 23, 2023 comment deadline.

This rule sets out the standards and process governing the actively seeking work program. When a recipient of disability retirement benefits is determined to no longer be disabled, the benefits continue as long as the recipient is actively seeking work. The proposed amendment establishes a rebuttable presumption that the recipient has not been actively seeking work if no work has been secured within five years. This presumption may be rebutted by a showing that the inability to secure work was out of the recipient's control. For current participants in the program, the five-year period would run from December 31, 2022.

At the Board's regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to adopt the amended rule and its basis statement. Voted _____.

94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chapter 702 APPEALS OF DECISIONS OF THE CHIEF EXECUTIVE OFFICER

SUMMARY: This Chapter sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees (“Board”). It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board.

SECTION 1. Purpose and Scope

The purpose of this Chapter is to set out procedures for reaching final agency action on matters initially decided by the Chief Executive Officer (or designee) of the Maine Public Employees Retirement System (“System” or “MainePERS”). The law governing the System provides that the Chief Executive Officer’s decisions may be appealed to the Board, which has authority and responsibility to render a decision that will become the final agency action. The person appealing the Decision has the burden to establish, by a preponderance of the evidence, that the Chief Executive Officer’s Decision is in error. This Chapter applies to appeals by any person aggrieved by a decision of the Chief Executive Officer.

SECTION 2. Authority

The authority for this Chapter is 5 M.R.S. §§ 9051 - 9064 and 5 M.R.S. §17451, which provide that an appeal under section 17451 is an adjudicatory proceeding subject to the Administrative Procedure Act and 5 M.R.S. §§17106-A, 17106-B.

SECTION 3. Definitions

1. **Appeals clerk.** “Appeals clerk” means the dedicated clerk who acts as liaison between the hearing officer and the parties to an appeal. The appeals clerk shall avoid all communication with System staff, or MainePERS representatives, regarding substantive issues for cases on appeal. The appeals clerk shall address all policy and procedural questions to the clerk’s supervisor, the system advisor or Board counsel.
2. **Board.** "Board" means the Board of Trustees of MainePERS.
3. **Board counsel.** “Board counsel” means the attorney general or the designated assistant attorney general assigned to represent the Board and to prepare the Board’s decisions.
4. **Chief Executive Officer.** "Chief Executive Officer" means the Chief Executive Officer of MainePERS or their decision-making designee.
5. **Hearing officer.** "Hearing officer" means an individual who has contracted with the Board to conduct appeal proceedings under this Chapter.

6. **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 by health care providers employed by the entity.
7. **MainePERS or System Representative.** “MainePERS Representative” or “System Representative” means the person or persons advocating for the decision of the Chief Executive Officer in an appeal.
8. **Participating Local District.** "Participating local district" means a local district which has approved the participation of its employees in the Retirement System under 5 M.R.S. §18201.
9. **Party.** "Party" means the person bringing an appeal, MainePERS, and any person who intervenes in an appeal. If an appeal involves or affects a participating local district, "party" includes the participating local district, regardless of whether the participating local district actually participates as a party in the appeal.
10. **Person.** "Person" means any individual, partnership, corporation, governmental entity, association or public or private organization of any character, other than the Board or the System.
11. **Record.** "Record" means those materials required by 5 M.R.S. §9059 and this rule to be compiled in the course of an appeal.
12. **Staff.** "Staff" means an employee of MainePERS, other than the MainePERS Representative.
13. **Substantially larger caseload.** “Substantially larger caseload” means that the number of appeals a hearing officer is presiding over is at least five and exceeds the mean hearing officer caseload by at least 30%.
14. **System advisor.** “System advisor” is a System employee who is knowledgeable in System policies, practices and procedures and who is available as an informational resource to assist the hearing officer, the Board and Board counsel. ~~If the hearing officer seeks information from the system advisor, such request shall be in writing and both the request and the response shall be copied to the parties and placed of record.~~

SECTION 4. Applicability: Who May Appeal

1. **Application.** This Chapter applies to all appeals of decisions of the Chief Executive Officer to the Board.
2. **Who may appeal.** Any person whose legal rights, duties or privileges are adversely affected by a decision of the Chief Executive Officer may appeal the decision to the Board. A person may but is not required to be represented by another person in accordance with 4 M.R.S. §807.

SECTION 5. Bringing an Appeal

1. **Notice.** When notifying a person whose legal rights, duties or privileges are affected by a decision of the Chief Executive Officer, the System must advise the person of the right to appeal to the Board and of the manner in which the right may be exercised. This notice must comply with 5 M.R.S. §9052.
2. **Statement of appeal.** A person who wishes to appeal a decision of the Chief Executive Officer must begin the appeal process by sending a written statement of appeal to the Board. Any reasonably clear statement to the effect that the person wishes to appeal a decision of the Chief Executive Officer, and identifying that decision, submitted by email or otherwise in writing to the System shall be treated as a statement of appeal. The only issues that are the subject of an appeal are those that have previously been decided by the Chief Executive Officer. If the person wishes to raise issues or conditions not previously considered by the Chief Executive Officer, those additional issues can be added in accordance with section 6(2) below.
3. **Assignment to hearing officer.** When a statement of appeal is received, the System, in a timely manner, will assign the appeal to a hearing officer in accordance with section 8. The System will notify the person of the identity of the assigned hearing officer and alternative hearing officers, describe the process for selecting an alternative hearing officer, briefly outline the appeal process and advise that, if the person fails to appear at any hearing, the appeal may be deemed to have been abandoned and the matter dismissed with prejudice.
4. **Notice to EmployerPartieicipating Local District.** If the appeal involves an employee of a participating local district or school unit, the System will notify the ~~employerpartieicipating local district~~ that the appeal has been brought, identify the employee and hearing officer, and ~~informadvise that the~~ employerpartieicipating local district is- how to become a party to the appeal. The notice must comply with 5 M.R.S. §9052.
5. **Appeals Packet.** MainePERS shall provide the appellant with a copy of the information considered by the Chief Executive Officer in reaching the decision that is subject to the appeal no later than 30 days after receipt of the statement of appeal.

SECTION 6. Choice of Appeal Process

At the pre-hearing conference described in section 8(3)(C) of this Chapter, the appellant shall affirmatively elect either the expedited or the unrestricted appeal process. This election becomes irrevocable 10 days after the pre-hearing conference, unless the System agrees to a later request to change the election.

1. **Expedited Appeal.** If the appellant elects the expedited process to pursue an appeal of the issues decided in the decision of the Chief Executive Officer, the evidence is limited to the appellant's testimony, the testimony of any lay witnesses and the documentary evidence already considered by the Chief Executive Officer. The parties may not raise any additional issues for decision. It is anticipated that a decision will be issued by the Board within approximately 90 days of the initial pre-hearing conference. Under this option, only non-expert witnesses may provide testimony on behalf of the appellant or the System.

2. **Unrestricted Appeal.** Alternatively, in the unrestricted appeal process, the appellant may raise issues in addition to those decided by the Chief Executive Officer, and the parties may introduce documentary evidence in addition to the evidence already considered by the Chief Executive Officer and testimony from expert as well as non-expert witnesses. The unrestricted appeal process is anticipated to take substantially longer than 90 days because some or all of the steps listed below may be required, or duplicated prior to the hearing officer's issuance of a recommended decision. An appellant who chooses to proceed under the unrestricted appeal process must affirmatively accept and acknowledge that this appeal process is likely to take substantially longer than 90 days. The additional steps that might occur in the unrestricted appeal process include, but are not limited to the following:
- A. If the appellant introduces issues not previously decided by the Chief Executive Officer, the hearing officer will return the appeal to the Chief Executive Officer for consideration of the new issues and reconsideration of any issues previously decided by the Chief Executive Officer. The appeal will be stayed pending the issuance of a decision of the Chief Executive Officer on all issues.
- (1) If the new issues include one or more new conditions on which the appellant wishes to apply for disability retirement benefits, the appellant has the same right to an independent medical examination on the new conditions as the appellant would have had if the conditions had been raised in a new application.
- B. If the appellant seeks to introduce new documentary medical evidence on any of the issues previously decided by the Chief Executive Officer, the hearing officer will, at the request of the MainePERS Representative, return the appeal to the Chief Executive Officer for reconsideration of those issues. The appeal will be stayed pending a reconsidered decision of the issues previously decided by the Chief Executive Officer. The Chief Executive Officer may submit the new evidence to the medical review provider.
- C. If any party introduces expert testimony, any other party, upon request to the hearing officer, may be granted additional time to prepare cross-examination of the expert and/or the submission of rebuttal expert testimony. Parties are entitled to a rebuttal hearing on request.

SECTION 7. Public Interest; Notice

If the Chief Executive Officer or designee determines that an appeal involves an issue of substantial public interest, notice must be given to the public, sufficiently in advance of the hearing date, to afford interested parties an adequate opportunity to prepare and submit evidence and to petition to intervene pursuant to 5 M.R.S. §9054. Notice to the public must be given in accordance with 5 M.R.S. §9052(3). If a party asserts that an appeal involves a matter of substantial public interest, such that public notice is required and the Chief Executive Officer or designee does not agree, the Board will make the determination in the following manner.

1. **By request.** The Chief Executive Officer or any other person may request that the Board make a determination of substantial public interest.

2. **Determination after appeal process has begun.** If the Board makes a determination of substantial public interest after the appeal process has begun, the process must be suspended until notice to the public has been given and interested persons have had an adequate opportunity to take action in accordance with this section.

SECTION 8. Hearing officer

1. **Appointment.** The Board shall contract with hearing officers to perform the duties and exercise the powers set forth in this Chapter. The hearing officers must have appropriate experience and training, be fair, impartial, unbiased, and demonstrate a continuing ability to conduct a fair, efficient and effective appeal process.
2. **Assignment; Removal; Replacement**
 - A. An appeal will be assigned by the System to a hearing officer who has no personal or financial interest, direct or indirect, in the appeal or its outcome, and who has not been involved directly or indirectly in the matter that is the subject of the appeal. The fact that a hearing officer is the recipient of a MainePERS benefit does not constitute, by itself, direct or indirect personal or financial interest in an appeal or its outcome. The assignment shall be based on balancing caseloads among contracted hearing officers. The appellant within 15 days after notice of the assigned hearing officer may select an alternative hearing officer who has contracted with the Board.
 - (1) The System need not offer as an alternative any hearing officer who has a substantially larger caseload than other hearing officers. The appellant may select a hearing officer who was not offered as an alternative because of a substantially larger caseload if the appellant shows, within the timeframe for selecting an alternative hearing officer, that the hearing officer is uniquely qualified to preside over the appeal.
 - (2) In an appeal with more than one appellant, if the appellants cannot agree on an alternative hearing officer, the hearing officer assigned by the System will serve as hearing officer.
 - B. If a party files a timely allegation of bias, prejudice or personal or financial interest, either direct or indirect, against the hearing officer, the hearing officer will promptly determine whether to remove herself/himself as hearing officer and will include that determination in the record.
 - C. A hearing officer may also independently remove themselves from the appeal if the hearing officer cannot be fair, impartial and unbiased.
 - D. When a hearing officer is removed, terminated or cannot continue, the System will assign the appeal to another hearing officer, and the appellant will have an opportunity to select an alternative hearing officer consistent with paragraph A and section 5(3). The new hearing officer will continue the ongoing appeal process, unless the hearing officer determines that in order to avoid substantial prejudice to any party it is necessary to start the process anew.

3. **Duty and powers of the hearing officer.** The hearing officer has the duty to render a fair and impartial recommended decision to the Board in accordance with section 15. This recommended decision must be based on the record as a whole and resolve all material issues in the appeal. In lieu of a recommended decision, the hearing officer may recommend dismissal. The hearing officer has the following powers:
- A. To resolve an appeal without a hearing; provided that the parties mutually agree to dispense with a hearing, by issuing:
 - (1) a recommended decision which meets the requirements of section 15, to be acted on by the Board under section 16, on the basis of the documentary materials which constitute the record; or
 - (2) a recommended dismissal with prejudice to be submitted to the Board for approval if, pursuant to section 6(2), the Chief Executive Officer issues a decision that favors the appellant, in whole or in part, and the appellant withdraws the appeal with respect to all portions of the decision of the Chief Executive Officer that are not in the appellant's favor; or
 - (3) a recommended dismissal, with or without prejudice as circumstances warrant, to be submitted to the Board for approval.
 - B. Upon adequate notice to the parties, to schedule the date, time and place or to change the date, time or place and to continue any conference, hearing, or deadline of any nature;¹
 - C. Generally working through the appeals clerk, to notify parties and hold a pre-hearing conference, of which all parties must be notified and at which they may participate, the purposes of which may include:
 - (1) determining whether the appellant elects the expedited or unrestricted appeal process in accordance with section 6, and explaining the consequences of the choice of appeal process;
 - (2) identifying and clarifying the issues on appeal and determining whether the appellant intends to introduce issues, not previously considered by the Chief Executive Officer;
 - (3) developing stipulations of fact and admissions as to facts that are not contested;
 - (4) identifying exhibits to apprise the parties as fully as is practicable of the nature of the evidence to be offered by all parties and to eliminate, as far as possible, the element of surprise;
 - (5) identifying witnesses and the manner in which the testimony will be provided as described in section 11(2);

¹ The MainePERS office in Augusta shall be the normal location for hearings, absent a request made in the notice of appeal or at the pre-hearing conference, together with a showing by the requesting party of a compelling need for an alternative venue.

- (6) identifying any potential parties to the adjudication whose joinder may foster economy, efficiency and fairness;
 - (7) identifying and resolving disputes as to production of documents and admissibility of evidence, including the making of evidentiary rulings; and
 - (8) any other action that will encourage and maintain a fair, efficient and effective appeal process.
- D. To order, where relevant and useful, one or more independent medical evaluations on conditions that have not previously been the subject of an independent medical examination, for which the System will, to the extent reasonably practicable, provide the names of three appropriately qualified health care providers, among whom the person appealing will choose and to whom the person will go for evaluation, the costs of which will be paid by the System;
- E. To return to the Chief Executive Officer or designee for consideration, any issue raised for the first time in the appeal process, as required pursuant to section 6(2)(A);
- F. To rule on any request at any conference, during the hearing or at any other time during the appeal process, prior to delivery of the recommended decision to the Board;
- G. Generally working through the appeals clerk, to set the time for all filings, appearances, and other actions by any party or parties in connection with the appeal process, in accordance with 5 M.R.S. §17451;
- H. To issue subpoena(s) on request of a party or to deny a request when the hearing officer determines that the testimony or evidence is not relevant to any issue of fact in the hearing, or otherwise inadmissible, in accordance with 5 M.R.S. §9060 and section 12 of these rules;
- I. After the close of the evidence, the parties' receipt of a hearing transcript, if any, and the issuance of an Chief Executive Officer's reconsidered decision as described in section 14, to request that the parties submit briefs on the issues not decided by the Chief Executive Officer in the appellant's favor, and to request or allow the parties to make oral argument to the hearing officer, when the hearing officer deems oral argument to be necessary or useful;
- ~~J. To refer or re refer to the medical review service provider any matter involving medical evidence, questions or issues;~~
- ~~J. K~~ To ascertain the rights of the parties, to identify and notify all parties that may be affected by a decision, to ensure that all parties have a full opportunity to present their claims orally or in writing and to secure witnesses and evidence to establish their claims, and to assist parties and witnesses in making full and free statements in order to develop all issues which may govern the outcome of the appeal;

- ~~KL~~. To administer oaths or affirmations to all witnesses in all hearings;
- ~~LM~~. To regulate the presentation of evidence, including questioning of witnesses and the participation of parties, in order to ensure an adequate and comprehensive record of the proceedings and to avoid repetition and delay;
- ~~MN~~. To examine witnesses and ensure that relevant evidence is admitted in the record;
- ~~NO~~. To determine the credibility of witnesses and to decide the weight to be given to testimony and all other evidence;
- ~~OP~~. To take official notice of facts in accordance with 5 M.R.S. §9058, and parties shall be copied with the facts noticed, and the source of those facts, which shall be placed of record;
- ~~PQ~~. To rule on the admissibility of evidence;
- ~~QR~~. To ensure that a complete record is made of the hearing, including recording in accordance with 5 M.R.S. §9059;
- ~~RS~~. To consult with the Board's counsel on legal issues; provided that, when an appeal raises issues of equity or constitutionality, the hearing officer must consult with the Board's counsel.
- ~~ST~~. To consult with the System advisor if the hearing officer requires information concerning general System structure, policies or practices if the hearing officer determines that such consultation would be helpful to a determination of the issues on appeal. If the hearing officer seeks information from the System advisor, such request shall be in writing and identify the case, and both the request and the response shall be copied to the parties and placed of record.
- ~~TU~~. To recommend dismissal in the event an appellant fails to appear at a hearing, or otherwise fails to prosecute the appeal, unless there is a showing of good cause under section 10.

SECTION 9. Duties and Responsibilities of the MainePERS Representative

The MainePERS Representative shall:

1. Organize case. Organize the presentation of the Chief Executive Officer's case;
2. Pre-hearing conference. Participate in the pre-hearing conference;
3. Present witnesses. Present and examine witnesses when appropriate;
4. Provide records. Ensure that the relevant records of the System are present at the hearing and that other parties have adequate opportunity to examine the records prior to and during the hearing;
5. Introduce records. Introduce into evidence relevant System records and documents; and

6. Provide evidence. Present and establish relevant facts and circumstances by oral testimony, including that of MainePERS staff, and by documentary evidence.

SECTION 10. Default

1. **Failure to appear.** Except as provided in subsection 2 below, if an appellant fails to participate in a scheduled conference, appear at hearing, or otherwise fails to prosecute ~~the his or her~~ case, the appellant may be deemed by the hearing officer to have abandoned the appeal. The hearing officer will so notify the appellant in writing via certified mail. If within 10 business days of receipt of the notice, the appellant submits information which demonstrates, in the judgment of the hearing officer, ~~that she or he had~~ good cause for failure to appear, the hearing will be rescheduled. On the 11th day following receipt of the notice by appellant and without suitable response, the decision of the Chief Executive Officer will become final and the hearing officer will issue a recommended dismissal with prejudice to the Board.
2. **Hearing in the absence of the appellant.** A hearing may be held in the absence of the person appealing when:
 - A. The person requests or agrees to a hearing in their absence; or
 - B. The hearing officer, at their discretion, proceeds with the hearing as the alternative to a default.

SECTION 11. Evidence

1. **Admissibility.** Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
2. **Testimony and Conduct of Hearings.** Testimony may be provided ~~telephonically, by deposition, by video, by a sworn written statement, or, after the requirement to conduct hearings using audio or video conferencing has expired,~~ in person, by video, by deposition, or, for compelling reasons, by telephone or sworn written statement at the discretion of the hearing officer. With the exception of sequestered witnesses, all participants in a hearing conducted by ~~audio or~~ video conferencing must be able to hear and see the other participants, and all participants in a hearing conducted telephonically must be able to hear the other participants. Parties must ensure that witnesses who provide sworn written statements or testimony be available for cross-examination during the hearing, although the cross-examination of expert witnesses may, at the request of a party, take place at a different time.
3. **Irrelevant or repetitious evidence.** Evidence which is irrelevant or unduly repetitive may be excluded.
4. **No formal rules of evidence.** Formal rules of evidence are not required and need not be observed.
5. **Weight of evidence.** The fact that evidence is admitted shall not limit the authority of the hearing officer to determine the weight to be given the evidence.

6. **Hearsay.** Hearsay evidence shall not be excluded simply because of its hearsay nature. The hearing officer will determine the weight to be given to hearsay evidence.
7. **Rules of privilege.** Rules of privilege as provided in the *Maine Rules of Evidence*, Article 5, shall be observed.
8. **Stipulation of facts.** When all parties stipulate to a fact, the hearing officer may make a finding of fact on the basis of the stipulation. Signed statements or on-the-record oral statements by parties are sufficient as stipulations.
9. **Official notice of facts.** The hearing officer may take official notice of a fact upon her/his own initiative or at the request of a party. Official notice may be taken of any fact of which judicial notice could be taken, and in addition, of any general or technical matter within the specialized experience or knowledge of the hearing officer, and of any statutes, rules and non-confidential public records. The hearing officer will notify the parties when official notice is taken and shall afford the parties an opportunity to contest the reliability, substance and/or materiality of the material noticed.
10. **Rebuttal Evidence.** To the extent that the appellant testifies or introduces evidence on matters or facts not previously known to the System, the hearing officer may, at the request of the MainePERS Representative, hold the record open for a reasonable period in order to allow the System to offer rebuttal evidence.

SECTION 12. Discovery and subpoenas

1. **Access to System documents and records.** A party must have an adequate opportunity prior to hearing, and at the hearing, to examine all of the System's documents and records to be offered as evidence. The System must provide to the person bringing the appeal a copy of the relevant portions of the record without charge.
2. **Request for subpoenas.** Any party may request the issuance of a subpoena by presenting the request to the hearing officer. The request must contain:
 - A. The name and address of the party requesting the subpoena; and
 - B. The name and address of the person to be subpoenaed, or other place where the person to be subpoenaed may be found; and
 - C. A brief statement why the testimony or evidence of the person to be subpoenaed is relevant to an issue of fact in the appeal.
3. **Issuance on approval.** If the hearing officer determines that the request seeks testimony or evidence relevant to an issue of fact in the appeal, and not otherwise excludable, the hearing officer must submit the subpoena for approval by the Attorney General or Deputy Attorney General who is not involved in the appeal.
4. **Requirements.** A subpoena shall comply with the requirements of 5 M.R.S. §9060.

SECTION 13. Hearings recorded

1. All hearings will be recorded in a form susceptible to transcription.
2. A copy of the transcript of a hearing or of expert testimony taken pursuant to section 11(2) will be provided to the parties.

SECTION 14. Reconsideration by the Chief Executive Officer

After the close of the evidence and the parties' receipt of any transcript, the Chief Executive Officer shall have ~~30 calendar~~^{10 working} days to reconsider all of the evidence and affirm or reverse, in whole or in part, the decision that is the subject of the appeal. If new grounds for affirming a decision adverse to the appellant are articulated by the Chief Executive Officer at this stage of the process, the hearing officer shall allow the parties a reasonable time to present additional evidence relevant to the issues raised in the Chief Executive Officer's reconsidered decision. If, after receiving the appeal evidence and any transcripts, the Chief Executive Officer consults with the medical review provider, the ~~1300~~-day period described above begins to run upon the Chief Executive Officer's receipt of the medical review provider's reports.

SECTION 15. Recommended decision of the hearing officer

1. **Contents.** Following the hearing or, if the parties have agreed to waive hearing, following review of the documentary and testimonial record, and following the issuance of the Chief Executive Officer's reconsidered decision, the hearing officer will prepare a recommended decision, which will include:
 - A. A clear statement of the subject(s) of the appeal and of the issues which must be resolved to decide the appeal;
 - B. A listing of the date, place of hearing, and participants at the hearing or, if no hearing was held, a statement that the parties agreed to proceed without a hearing or other explanation;
 - C. A listing of all evidence admitted and upon which the recommended final decision is based;
 - D. Findings of fact, which must be sufficient to apprise the parties of the basis for the recommended decision;
 - E. A clear statement of result resolving all issues under consideration; and
 - F. A clear explanation of the reasoning underlying the result, including references to applicable law and rules.
2. **Comments, modification, and delivery to the Board**
 - A. The hearing officer will furnish a copy of the recommended decision to each of the parties for comment. A party's comments must be in writing and must be received within the time period set by the hearing officer.

- B. If a party believes that the hearing officer's decision contains one or more errors of law, or that the hearing officer has exceeded their jurisdiction, or that there is no support in the record for the factual findings of the hearing officer, the party shall so advise the hearing officer in that party's written comments. Identification of the error(s) by specific record citation is required.
- C. The hearing officer may, but is not required to, modify the recommended decision in response to the parties' comments. If in the judgment of the hearing officer, the previously issued recommended decision is substantially modified, the hearing officer will send the recommended decision as modified to the parties for further comment, as provided in paragraph A.
- D. The hearing officer will submit the recommended decision, as originally prepared and as modified, together with the written comments made by the parties, to the Board clerk. Where the recommended decision is not modified, the hearing officer will also deliver to the Board clerk a written response to the parties' written comments. Upon transmittal to the Board, the decision of the hearing officer constitutes the recommended final decision of the hearing officer.
- E. If a party believes that the recommended final decision of the hearing officer contains one or more errors of law, or that the hearing officer has exceeded their jurisdiction, or that there is no support in the record for the factual findings of the hearing officer, the party must so notify the Board in writing so that the notification is received by the Board within 10 days after that party's receipt of the recommended final decision, specifying the error(s) by specific citation to the record. In the event no written comments are received by the Board as specified herein, the Board will be compelled to accept the recommended final decision pursuant to 5 M.R.S. §17106-A and will not schedule consideration of the appeal or permit oral argument by the parties.

SECTION 16. Action by the Board

1. If the Board is compelled to adopt the recommended final decision of the hearing officer pursuant to 5 M.R.S. §17106-A(1), the Board will do so during its monthly meeting, as time permits, and will not schedule consideration of the appeal or permit oral argument by the parties.
2. If a party believes an error exists in the recommended decision pursuant to 5 M.R.S. §17106-A and the alleged error has not been resolved by the hearing officer, that party shall notify the Attorney General's Office, to the attention of MainePERS Board counsel, so that the notification is received within 10 days of that party's receipt of the recommended final decision.
 - A. The Board or Board counsel may on its own initiative, determine that an error pursuant to 5 M.R.S. §17106-A exists in the recommended final decision.
3. Upon review of the record, the Attorney General or designee shall notify the parties, prior to the scheduled Board consideration, whether the Board will be advised that an error of law exists in the recommended final decision.

4. If the Attorney General or designee recommend that the Board find one or more errors in the recommended final decision as described in 5 M.R.S. §17106-A(1), then the following procedures will be followed.
- A. **Board Consideration.** The Board will consider the recommended final decision, together with the allegation of error(s), on a timely basis and, for an appellant who has chosen the expedited appeal process, will issue a decision within 90 days of the initial pre-hearing conference, when possible.
 - B. **Recommended final decision and record.** In advance of Board consideration, a copy of the recommended final decision with the parties' comments and Board counsel's recommendation, will be forwarded to each Board member.
 - C. **Statement by party.** A party who is present at a scheduled consideration may not offer evidence but may make a statement of position not to exceed 15 minutes in length. Such statement of position may address the alleged error(s) pursuant to 5 M.R.S. §17106-A(1). When a party's statement of position relies on specific portions of the record, the party must provide copies of the relevant portions to the Board and other parties at least 5 days prior to the date for consideration by the Board.
 - D. **Hearing officer present.** If requested by the Board, the hearing officer may be present at the scheduled consideration to assist the Board.
 - E. **Action after consideration.** After considering the recommended final decision, the Board may:
 - (1) adopt the recommended final decision as delivered;
 - (2) modify the recommended final decision;
 - (3) send the recommended final decision back to the same hearing officer if possible, or a replacement hearing officer for the taking of further evidence, for additional consideration of issues, for reconsideration of the application of law or rules, or for such other proceedings or considerations as the Board may specify; or
 - (4) reject the recommended final decision in whole or in part and issue an amended Board decision;
5. ~~Board counsel will draft the decision and order.~~ A decision as issued by the Board under this Section is the final administrative decision in the appeal.

SECTION 17. Attorney's Fees

1. The System is required by 5 M.R.S. § 17106-B(5) to pay attorney's fees, up to a total of \$12,000, if an attorney has represented the appellant on appeal of a disability retirement decision and obtained a favorable result. A favorable result is a reversal of a decision of the Board or Chief Executive Officer that results in the grant of benefits to the appellant or otherwise materially advantages the appellant.

2. Attorney's fees under this section may be awarded by a Court on judicial review of a Board decision or by the hearing officer in the case where a decision of the Chief Executive Officer has been reversed by the Board or the Chief Executive Officer.
3. Application to a hearing officer for attorney's fees must be made no later than 30 days after receipt of the Board decision or the dismissal of the appeal following reversal by the Chief Executive Officer.
 - A. The application must be accompanied by proof of the fee arrangement and a statement of attorney's fees incurred in the appeal. The statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services and a statement of the attorney's customary billing rate for similar work.
 - B. The hearing officer may grant the application based on the proof submitted or may hold a hearing and receive argument orally, in writing, or both.
 - C. A decision on an attorney's fee application may be appealed to the Board, who shall affirm the decision unless it is not supported by the record as a whole, the Board is advised by 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.
 1. The process for Board review shall be consistent with section 16 above to the extent applicable.
 2. The Board's decision constitutes final agency action.

STATUTORY AUTHORITY:

5 M.R.S. §§ 9051-9064, 17103(4), 17106-A, 17106-B and 17451

BASIS STATEMENT FOR REPEAL FEBRUARY 9, 2023/STATEMENT OF COMMENTS:

This proposal for rule-making was developed through a consensus-based process in accordance with 5 M.R.S. § 8051-B and noticed on December 21, 2022. A public hearing was held on January 12, 2023. One member of the public provided oral comments at the public hearing, and the same member of the public submitted written comments prior to the January 23, 2023 comment deadline. No other comments were received.

This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. The proposed amendments update and clarify the appeals process, including: (1) how an appeal can be filed; (2) how employers can participate in an appeal; (3) when an appellant is entitled to receive the appeals packet; (4) when an appellant is entitled to an independent medical examination; (5) how appellants must be notified that their appeal may be considered abandoned; (6) how testimony may be provided; and (7) how much time the Chief Executive Officer has to reconsider decisions.

One member of the public¹ recommended that Section 8(3)(J) of the rule not be deleted as proposed. The commenter opined that leaving this section in place would permit the hearing officer to serve as a “neutral and independent decision maker” as required by statute and that the hearing officer “should not be limited to receiving only the medical information that MainePERS staff chooses to obtain and include” in the records that go to the hearing officer for consideration. The commenter suggested that the medical review service provider could assist the hearing officer in framing a referral for an independent medical examination.

Staff believes that the removal of Section 8(3)(J) as proposed does not impede the ability of hearing officers to be independent decision makers. Hearing officers are not limited to information that MainePERS staff provides. Appellants also have the opportunity to submit evidence, and the proposed amended rule provides the hearing officer with authority to order an independent medical examination if one has not already been obtained.

The medical review service provider’s role in the disability eligibility process is to provide recommendations and opinions to the Chief Executive Officer. 5 M.R.S. § 17106-B. Hearing officers in practice have not used their authority in the existing rule to refer cases to the medical review service provider or previously to the medical board, at least for many years. Neither hearing officers nor the Chief Executive Officer use the medical review service provider to frame referrals for independent medical examinations.

Based on the above, staff does not believe that any additional changes to the proposed rule are necessary in response to the comments received, and the Board concurs.

At the Board’s regular meeting held on February 9, 2023, _____ made the motion, seconded by _____ to adopt the amended rule and its basis statement. Voted _____.

¹ Sarah Walton, Esq., Winthrop

Comments in Response to MainePERS Proposed Rulemaking
Concerning MainePERS's Proposed New Rule
94-411, Chapter 506: Eligibility for Disability Retirement Benefits
Rulemaking notice published December 21, 2022 & public hearing held January 12, 2023
2022-P228
by Sarah Walton, Esq., P.O. Box 235, Winthrop, ME 04364
five pages submitted to MainePERS on January 23, 2023

General Observation.

The MainePERS Board of Trustees is required to consider the social impacts of proposed rules. 5 MRSA §8052(4).

I ask that in considering this rulemaking, the Board of Trustees keep in mind the economic, emotional, psychological, and physical stress borne both by members applying for disability retirement benefits and by disabled retirees currently receiving benefits that they paid for and earned through service as public employees.

When disability retirement benefits for which eligible seriously ill and disabled individuals are threatened with delay, denial, or termination, significant stress is borne by them and their family members, especially family members who are their caregivers. Under such circumstances, unnecessary stress is also experienced by friends, former colleagues, and Maine taxpayers in general, who may be called upon to fill the gap so that those individuals are able to afford basic necessities such as food, medicine, and housing.

Comment #1:

Subject: Section 1, Definitions (1): “Consistent with the person’s training, education, or experience” has the same meaning as “qualified by training, education or experience.” A member may be qualified by training, education, or experience to engage in an activity even if the member has not previously engaged in it or has not engaged in it for pay. The fact that the member may need additional training for a specific position does not mean that the position is inconsistent with the member’s training, education, or experience.

Recommendation: Delete the last sentence: The fact that the member may need additional training for a specific position does not mean that the position is inconsistent with the member’s training, education, or experience.

Discussion: This definition appears to have been included in the rule to provide a regulatory basis for an unfair MainePERS position that has been taken in at least some past instances. In the John Sczymecki Appeal, Board decision 2014-069, issued 9-8-2016, MainePERS took the position that he was qualified by training, education, and experience to be an assistant service manager or automotive center manager even though he would have to first undergo, apparently at his own expense, substantial training in the inner workings of motor vehicles produced after 1980 to qualify.

Comment #2:

Subject: Section 1 Definitions (4): “Earnings” means “wages from employment and non-wage net income received in return for labor, services or goods, such as received in self-employment. Absent evidence to the contrary, net rental income from real estate is considered earnings and will be allocated equally among owners.”

Recommendation: Rewrite the definition to make clear that “earnings” is compensation paid to the retiree as an employee and net income from work done by the retiree for the generation of profit primarily by means of the retiree’s own productive work activity. The income generated primarily through the paid or unpaid physical and mental activities of others should not be subject to disability retiree annual earnings limitations. The definition should exclude passive and mostly passive income from the ownership of farms or other real estate, partnership shares, and investments. In the *Hawes* Appeal 2019-004, after the close of evidence, the Chief Executive Officer’s Designee applied a standard of “active participation” to rental income --a new standard, not applied by MainePERS in other instances and not mentioned in the proposed Chapter 506.

Discussion: This definition appears to have been included in the rule to provide a regulatory basis for an unfair MainePERS position that has been taken in past instances that goes well beyond the statutory language of “compensation ... from engaging in any gainful activity or employment.” The proposed definition unfairly imposes for MainePERS purposes an automatic assumption that net rental income shown on a joint tax return should be “allocated equally among the owners” and subjects a disabled retiree to reduction or termination of benefits even though he or she may have engaged in no or very little work activity with respect to the rental property.

In *Pelton v. Board of Trustees for the Maine Public Retirement System*, (April 25, 2016) the Somerset Superior Court rejected MainePERS argument that

“If someone can earn money, regardless of the source, they no longer need disability retirement benefits. That’s the bottom line.”

The *Pelton* Superior Court overturned the MainePERS position that the reimbursement payments that Ms. Pelton received for providing foster care to children were “earnings” that fell within the statutory phrase “compensation ... from engaging in any gainful activity or employment.” If the proposed definition were to be adopted, there would be nothing in the rule barring a MainePERS staff person from counting foster care reimbursements as “earnings” subject to the statute.

In *Courtois v. MainePERS*, (June 27, 2012) the Cumberland County Superior Court reluctantly upheld the Board’s decision to count Mr. Courtois’ net rental income from three rental properties as “compensation” for purposes of the statute even though Mr. Courtois performed only approximately 30 hours in the year. The court noted that “there is no bright line separating investment income from compensation that can be applied to the circumstances of this case”:

“Based on the evidence in the record, the agency could have found that the rental income received by Courtois in 2009 more closely resembled investment income than compensation. If the court were evaluating the record in the first instance, it might have

reached that conclusion. However, the court is not entitled to substitute its judgment for that of the agency, and there is evidence in the record to support a finding that Courtois performed a limited amount of work in connection with his three rental properties. This work totaled approximately 30 hours during 2009, a year in which none of the existing tenants moved out.”

In 2012, the Court was constrained by a standard of judicial review that is highly deferential to an agency’s interpretations of a statute if there is *any* evidence to support the agency’s findings. The next time such a case comes before the Superior Court, the court’s ruling could be different due to the new “de novo” standard of review enacted in the 130th Legislature (PL 2021, ch. 277) 5 MRSA §11007 (3).

Comment #3:

Subject: Section 1, Definitions (13): “Substantially gainful activity” means any combination of activities, tasks, or efforts, with any reasonable accommodations, for which the member is qualified by training, education, or experience that would generate annual income in an amount in excess of the substantially gainful activity amount in the labor market for the member’s state of residence.

Recommendation: Narrow the definition to more closely follow the applicable statutes. MainePERS should consider medical and vocational evidence in determining whether the beneficiary has the physical, mental, and vocational capabilities to perform substantially gainful activity.

Discussion: Similar to the discussions above, “any combination of activities, tasks, or efforts” is too broad. In past MainePERS cases, MainePERS has extrapolated what a disability retiree is able to do for a short time when he or she feels up to it to mean that the person is capable of doing a lot more on a regular sustained basis – even though medical evidence that due to a variety of functional limitations stemming from incapacities deemed unrelated to the condition on which disability benefits were granted would be difficult if not impossible to overcome. Adding to these obstacles may also be a limited vocational outlook due to having been out of the workforce performing such activities. See the Appeal of John Sczylmecki, Board decision 2014-069, issued 9-8-2016.

Comment #4:

Subject: Section 1, Definitions: There is no definition of the “whole person approach” referenced in Chapter 506, Section 2, Subsection(3)(B).

Recommendation: Because the “whole person approach” is a standard applied by MainePERS to determine whether or not someone is eligible for disability retirement benefits, this standard should be defined in the rule.

Discussion: The MainePERS “whole person approach” standard likely differs from the “whole person theory” used by the Veterans Administration in determining disability benefits.

Comment #5:

Subject: Section 2. Initial Eligibility (4) Application of disabled veteran presumption. “A member seeking application of the disabled veteran presumption based on a determination of individual unemployability must authorize release of information from the U.S. Department of Veterans Affairs as requested by MainePERS in addition to cooperating in providing other essential information needed to process the disability retirement application.”

Recommendation: Add language about what the presumption is, its statutory basis, and a description of how MainePERS applies the disabled veteran presumption.

Discussion: A driving force behind the Legislature’s placement of the presumption in MainePERS statutes was unnecessary stress that MainePERS subjected disabled veterans applying for disability retirement benefits even though they met federal individual unemployability standards for a service-connected disability. The proposed Chapter 506 (Eligibility for Disability Retirement Benefits”), entitled “application of the disabled veteran presumption” should contain more than mandating cooperation with MainePERS requests. The potential anxiety and frustration that would be caused by the lack of transparency in this section of the proposed rule should be addressed.

Comment #6:

Subject: Section 3. Reviews for Continuing Eligibility, (1) Scheduling of Reviews (B)
A disability retiree may be reviewed for continuing eligibility for disability retirement benefits in the following circumstances: ... B. Earnings or other information about a retiree’s activities received by MainePERS show that the retiree may have capacity to engage in substantial gainful activity and at least one year has passed since any previous review.

Recommendation: In the interest of finding ways to alleviate unnecessary stress on disability retirees, please reconsider what MainePERS means by “earnings” (see previous discussions) and whatever might be MainePERS current practices to obtain “other information about a retiree’s activities.”

Discussion: The internal Disability Services Practices 2.9, Review of Continuing Eligibility for Disability Retirement Benefits, adopted February 2, 2022 (available through a Freedom of Access request), states that

“Recipients may be reviewed at points in time when their activities indicate an ability to engage in SGS. Evidence of this ability is mainly recipient-generated based on information associated with requests for earnings limitations, reports of transferable skill improvement, and information indicating gainful activity.”

Contacting MainePERS to inquire about the earnings limitation evidently puts one at risk of having to undergo a review of continuing eligibility. In the John Sczymecki Appeal, Board decision 2014-069, issued 9-8-2016, shows that at least in that case, the fact that the federal tax returns reported negative net income from farming triggered MainePERS to hire a private investigation firm to conduct video surveillance of Mr. Sczymecki purchasing groceries and perhaps putting a bridle on a horse with the assistance of his hired hand. The hearing officer

found that it was difficult to discern Mr. Sczymecki’s activities from a video taken from a nearby wooded area. However, MainePERS staff and the MainePERS Medical Board relied heavily on that video in reaching their conclusion that Mr. Sczymecki could get a job and earn his substantially gainful activity amount of \$41,765.32. As a result, MainePERS placed Mr. Sczymecki in “Actively Seeking Work” status and required him to seek employment.

Comment #7:

Subject: Section 3, Reviews for Continuing Eligibility, (3) Standard on Review and (4) Rebuttable Presumption:

3. Standard on review. The retiree’s eligibility for retirement benefits continues if the retiree is unable to engage in any substantially gainful activity due to functional limitations caused by the mental or physical conditions that were the basis for the initial eligibility determination or by one or more new conditions that arose from the conditions that were the basis for the initial eligibility determination.
4. Rebuttable presumption. A retiree is presumed to be no longer eligible for retirement benefits if the retiree has earned more than the substantially gainful activity amount in one or more years while receiving disability retirement benefits. This presumption may be rebutted by information showing that the standard in subsection 3 is met notwithstanding these earnings.

Recommendation: After this paragraph, please insert a paragraph or two about how it comes about that MainePERS may terminate benefits or place the retiree on “actively seeking work” status. The rule should also reference Chapter 511, Standards for Actively Seeking Work. Chapter 511 indicates what a person in actively seeking work status must do, but does not include any information about the circumstances under which MainePERS places individuals in that status.

Please also insert a paragraph about MainePERS procedures with respect to the retiree’s right to an informal hearing (to which the retiree may bring legal counsel) prior to any adverse decision rendered on behalf of the Chief Operating Officer with respect to the recoupment, suspension or termination of benefits or assessment of penalties. 5 MRSA §17105-A.

Discussion: For the sake of transparency and understandability, each of the suggested paragraphs should contain more than a statutory reference. In the interest of decreasing member frustration and stress, notice of the opportunity to provide additional information (with or without the assistance of an attorney) prior to issuance of the retirement system issuing a decision triggering the formal appeal process described in 5 MRSA 17451 and Chapter 702. The proposed rule should describe how notice is provided to the member or retiree of this statutorily created right and the procedure that MainePERS uses for informal hearings.

Comments in Response to MainePERS Proposed Rulemaking
Concerning MainePERS's Proposed Amendments to
94-411, Rule Chapter 702: Appeals of Decisions of Chief Executive Officer
Rulemaking notice published December 21, 2022 & public hearing held January 12, 2023
2022-P233
by Sarah Walton, Esq., P.O. Box 235, Winthrop, ME 04364
five pages submitted to MainePERS on January 23, 2023

Comment

Subject: Powers of the hearing officer in formal appeals of decisions of the Chief Executive Officer.

-On page 7, the proposed amendment to Chapter 702 deletes paragraph "J" from Section 8 (hearing officer), subsection 3 (duty and powers of the hearing officer). Paragraph "J" currently provides that the hearing officer has the power to

“refer or re-refer to the medical review service provider any matters involving medical evidence, questions or issues.”

-Also on page 7, the proposed amendment to Chapter 702, Section 8, paragraph D, provides that one of the powers of the hearing officer is

“to order, where relevant and useful, one or more independent medical evaluations on conditions that have not previously been the subject of an independent medical examination, for which the System will, to the extent reasonably practicable, provide the names of three appropriately qualified health care providers, among whom the person appealing will choose and to whom the person will go for evaluation, the costs of which will be paid by the System”

Recommendation: Do not delete Chapter 702 (8) (J), the power of the hearing officer “to refer or re-refer to the medical review service provider any matters involving medical evidence, questions or issues.”

Discussion:

The rationale for removal of this power of the hearing officer is absent from the Brief Summary accompanying the proposed rulemaking:

BRIEF SUMMARY: This rule sets out the process for appeals of decisions of the Chief Executive Officer to the Board of Trustees. It provides for the appointment of a hearing officer to conduct an appeal and to prepare a recommended decision for action by the Board. The proposed amendments update and clarify the appeals process, including: (1) how an appeal can be filed; (2) how employers can participate in an appeal; (3) when an appellant is entitled to receive the appeals packet; (4) when an appellant is entitled to an IME; (5) how appellants must be notified of an abandoned appeal; (6) how testimony may be provided; and (7) how long the CEO has to reconsider decisions. The proposed amendments also make non-substantive changes to the rule.

In the new law effective October 2021, the Legislature made clear its intent that hearing officers “serve as neutral and independent decisionmakers.” (PL 2021, ch. 277, sec 16; 5 MRSA section 17106-A).

Empowering hearing officers to order independent medical evaluations under certain circumstances as paragraph D provides, allows the hearing officer to fulfill her or his role as a neutral and independent decisionmaker. To maximize the effectiveness of ordering an independent evaluation, first obtaining an independent examination referral (IE Referral) from the medical service provider (currently the University of Massachusetts Medical School’s Disability Evaluation Services (UMass-DES) through June 30, 2025) under some circumstances would help ensure that the evaluation sought is with expert recommendations as to the appropriate specialty, suggested tests and questions and areas of focus for the independent medical examination provider. (See Attachment “A” to this document for a sample UMass-DES Independent Examination Referral Form.)

The ability of the hearing officer to “to refer or re-refer to the medical review service provider any matters involving medical evidence, questions or issues” in other matters would also allow the hearing officer to serve, as the Legislature intended as a “neutral and independent decisionmaker.” Hearing officers should not be limited to receiving only the medical information that MainePERS staff chooses to obtain and include in the “appeal packet.” Hearing officers are unable to serve the role of a “neutral and independent decisionmaker” as intended by the Legislature, if they lack the power to clarify their understanding of medical records when needed by asking questions of the medical review service provider.

This power of the hearing officer would appear to fit with MainePERS’s Medical Review Service Provider Request for Proposals “Specifications of Work to be Performed and Products to be Delivered.” UMass Contract with RFP Response, pp. 90-91. One work specification was that the requirement that the successful bidder “have reviewing medical professionals available to MainePERS for ad hoc basis questions ... or clarifications.” UMass Contract with RFP Response, p. 90. The UMass response was “MainePERS can rest assured that the availability of UMass personnel for ad hoc basis questions, discussions, or clarification will be consistent and universally responsive” and indicated a quick turn-around time, including possibly outside normal business hours. UMass Contract with RFP Response, p. 31.

Attachment “A”

Images of the Sample “IE [Independent Examination] Referral Form”
in Appendix C.2: Sample Forms
located on pages 57 and 58
of the 97-page document that MainePERS provided in response to
a Freedom of Access Law Request for a copy of
the contract that MainePERS has with the current medical review services provider,
University of Massachusetts Medical School (UMass)

The “IE Referral Form” is referenced by UMass on page 36 in a paragraph stating that if an Independent Medical Exam or Independent Psychological Exam is needed, “a UMass physician or psychologist will recommend the appropriate specialty and specify suggested questions and areas of focus for the IME provider using a form designed for that purpose (found in Appendix C.2: Sample Forms – IE Referral Forms).

REQUEST FOR INDEPENDENT EXAMINATION (IE) REFERRAL FORM**Date Requested:** 02/07/2020 _____ **DOB:** XX/XX/XXXX _____**Member Name:** XXXXXXXX XXXXXXXX _____ **Member ID:** XXXXXXXX _____**Address:** XX XXXXXXXXXXX XXXX XXXX _____**City:** XXXXXX _____ **State:** Maine _____ **Zip Code:** XXXXX _____**E-mail:** XXXXXXXXXXXX@gmail.com _____**Member's Telephone Number:** (111) 111-1111 _____**Last Date Employed:** 1/1/2020 _____**INDEPENDENT EXAMINATION RECOMMENDATIONS****Independent Examination requested:** **Medical** **Psychological****IE Specialty Recommended:**

<input type="checkbox"/> Occupational Medicine	<input type="checkbox"/> Internal Medicine	<input type="checkbox"/> Physical Medicine & Rehabilitation
<input checked="" type="checkbox"/> Psychiatry	<input type="checkbox"/> Pain Management	<input type="checkbox"/> Neurology
	<input type="checkbox"/> Other: _____	

Summary of Questions:

(Provide a narrative that includes suggesting questions or areas of focus for IME/IPE providers.)

XXXXXXXX XXXXXXXX (DOB XX/XX/XXXX) is a XX yo female with reported psychiatric diagnoses of PTSD and Major Depressive Disorder, recurrent, severe, without psychosis. Ms. XXXXXXXX has been described as having Bipolar Disorder, Dissociative Disorder, Unspecified Anxiety Disorder with panic attacks, seizure-like episodes, migraine headaches and cognitive impairment.

There is no current, objective evidence in Ms. XXXXXXXX 'X record to support the above diagnoses except for the Medical Certification for Disability Benefits completed by XXXX XXXXXXXX, LCSW who reportedly is Ms. XXXXXXXX 'X individual psychotherapist. The form is to be completed by a physician and the form is missing page 5 that addresses whether Ms. XXXXXXXX can perform past work and /or engage in other gainful employment. Page 5 also provides the date of completion of the form.

In the Medical Certification for Disability Benefits, XXXX XXXXXXXX, LCSW writes that Ms. XXXXXXXX has been diagnosed with PTSD and MDD. Nowhere is the traumatic experience mentioned in Ms. XXXXXXXX 'X record. Ms. XXXXXXXX writes that Ms. XXXXXXXX exhibits a full range of PTSD symptoms. There are no past or current progress notes from any of Ms. XXXXXXXX 'X providers to confirm this. Additionally, there are no current progress notes that address any of her psychiatric and/or medical issues or her ability to work. There is no functional capacity assessment.

In Ms. XXXXXXXX 'X record, there is a copy of her original disability approval in 2006. The comments listed are that Ms. XXXXXXXX retired on XX/XX/XXXX due to Bipolar Disorder, PTSD, migraines, panic attacks, seizures, dissociation, memory impairment and poor coping skills.

In the Report of Continuing Disability (ROC) [2020], Ms. XXXXXXXX states that she considers herself to continue to be disabled due to episodes of severe depression, anxiety, dissociation and inability to function in daily life. Ms. XXXXXXXX also writes that she lost her right eye due to a tumor in October of 2006. The purpose of the independent psychological examination is to obtain current, objective information and evidence that supports her continuing eligibility for disability review such as a Mental Status Examination, information on the etiology of the diagnosis of PTSD, what are Ms. XXXXXXXX 'X current symptoms and how much do they interfere with her ability to sustain past employment or any other gainful employment.

It would be helpful to clarify the affective diagnosis; i.e. Bipolar or Unipolar Depression.

A cognitive assessment would be helpful to evaluate memory, attention, concentration, focus, understanding directions, ability to follow directions and to complete tasks in required time.

Summary completed by: XXXXXX XXXXXXX, DO _____

Specialty/Subspecialty: Psychiatry _____

Physician Signature

MAINEPERS

BOARD OF TRUSTEES LEGISLATIVE MEMORANDUM

TO: BOARD MEMBERS
FROM: MICHAEL J. COLLERAN, GENERAL COUNSEL
KATHY MORIN, DIRECTOR, ACTUARIAL AND LEGISLATIVE AFFAIRS
SUBJECT: LEGISLATIVE UPDATE
DATE: FEBRUARY 1, 2023

The First Regular Session of the 131st Legislature convened on December 7, 2022. We will review proposed bills as they are printed and will bring to you bills that either could directly impact the System or are likely of interest. Statutory adjournment for the First Regular Session is June 21, 2023.

POLICY REFERENCE

[Board Policy 3.1 – Reporting](#)

[Board Policy 3.2 – Legislation](#)

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communications and Support to the Board](#)

COMMITTEE OF JURISDICTION

Pension-related bills are being referred to the Committee on Labor and Housing, thus confirming our understanding that it will remain the committee of jurisdiction.

BILLS SUBMITTED BY LEGISLATORS

The deadline for submission of bills by legislators was December 30, 2022. The list of submitted bills has been released by titles only. In addition to those bills that have been printed and are discussed below, bills have been submitted that include the following topics:

- A. investment/divestment;
- B. cost-of-living adjustments;

- C. special plan coverage;
- D. disability retirement program;
- E. early retirement reduction;
- F. military service credit purchase;
- G. Freedom of Access Act;
- H. rulemaking; and
- I. Social Security Windfall Elimination Provision review;

PRINTED BILLS

The following bills have been printed.

L.D. 70 – COLA BASE

This bill would eliminate the COLA Base, which is the level of benefit that is subject to a cost-of-living adjustment (COLA). This applies to retirees from the State-sponsored plans.

L.D. 106 – SERVICE CREDIT

This bill would allow a member who has completed an established percentage of the special plan to continue to earn special plan credit upon transfer to a regular plan position. A public hearing for this bill is scheduled for February 9.

A copy of this bill is included with this memo.

L.D. 185 – TEACHER EARLY RETIREMENT

This bill would change the early retirement reduction that applies to teachers with at least thirty-five years of service credit. A public hearing for this bill is scheduled for February 9.

A copy of this bill is included with this memo.

L.D. 197 – SPECIAL PLAN FOR CRIME LAB/COMPUTER CRIMES UNIT

This bill would establish a new special plan for certain employees in the Department of Public Safety, Computer Crime Laboratory or computer crimes unit.

A copy of this bill is included with this memo.

L.D. 206 – PROPOSED FY 2023 SUPPLEMENTAL BUDGET

Part J of the proposed supplemental budget would provide a one-time, non-cumulative 1% cost-of-living adjustment for eligible retirees from the State-sponsored plans.

A copy of the relevant part of the bill is included with this memo.

L.D. 258 – PROPOSED FY 2024-2025 BIENNIAL BUDGET

This bill is the proposed biennial budget. It includes required funding for normal cost and unfunded liability costs for the State-sponsored plans. It also includes required funding for retired teacher group life insurance and the pay-as-you-go Governor's Retirement Plan.

L.D. 313 – SPECIAL PLANS FOR LAW ENFORCEMENT

This concept draft aligns retirement plans for certain law enforcement officers.

A copy of this bill is included with this memo.

REPORTS

The following reports have been or will be prepared for the Legislature during the upcoming weeks:

BOARD AND PLD ADVISORY COMMITTEE ACTIVITY

The System is required to report annually to the Secretary of State on activities of the Board of Trustees and the PLD Advisory Committee. These reports were submitted on December 20, 2022, and copies were previously provided to the Board.

ESG POLICY

The System is required to report information annually to the Legislature regarding its environmental, social and governance investment policy. This report must disclose commonly available environmental performance metrics on the environmental effects of the board's investment. This report was filed on December 15, 2022, and a copy was previously provided to the Board.

DIVESTMENT

The System is required to report information to the Legislature regarding the progress of divestment from fossil fuels and the implementation of the divestment law enacted in 2021 (PL c. 231). This report must be submitted annually by January 1, 2023, 2024 and 2025. We requested an extension for the filing of this report until January 17, 2023 in order for the Board to have an opportunity to review the final report before it was submitted. The report was submitted on January 17, and a copy was previously provided to the Board.

LONG-TERM DISABILITY INSURANCE

The System is required to submit a report to the Legislature regarding an implementation plan for mandatory long-term disability insurance. This report was filed on December 20, 2022, and a copy was previously provided to the Board.

DISABILITY RETIREMENT

The System is required to submit a report to the Legislature regarding the experience of the system and its members after the implementation of the new disability program provisions. This report was filed on January 31, 2023, and a copy was previously provided to the Board.

PROCUREMENT

The System is required to report information annually to the Legislature regarding procurement, contributions, and changes to certain policies and procedures. This report was filed on January 23, and a copy is included with this memo.

MILITARY SUBSIDY REPORT

The System is required to report information annually to the Legislature regarding military service credit purchase requests received from certain categories of members. This report is due by February 15, 2023, and a copy of the report will be provided to the Board once it is completed.

ANNUAL REPORT TO THE LEGISLATURE

The System is required to submit an annual report to the Legislature, including specific information set out in statute. This report is due by March 1, 2023, and a copy of the report will be provided to the Board once it is completed.

PRESENTATIONS

The System presented an orientation briefing to the Committee on Appropriations and Financial Affairs (AFA) on January 30, and to the Committee on Labor and Housing (LBHS) on January 31. Both presentations were well received. A copy of each presentation is included with this memo. We would recommend that you review only the LBHS version, since it includes all of the information in the AFA version as well as information requested by the LBHS Committee or that we thought would be helpful to the LBHS Committee as they consider MainePERS-related bills during the upcoming session.

The System will present the Disability Program Experience Report to the LBHS Committee on February 2.



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

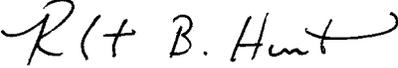
No. 106

H.P. 74

House of Representatives, January 9, 2023

An Act to Standardize Service Credit Qualifications for State Retirees

Reference to the Committee on Labor and Housing suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative PARRY of Arundel.
Cosponsored by President JACKSON of Aroostook and
Representatives: COLLINGS of Portland, GATTINE of Westbrook, TERRY of Gorham,
Senators: DAUGHTRY of Cumberland, HARRINGTON of York, INGWERSEN of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §17857, sub-§2**, as amended by PL 2001, c. 442, §2 and PL 2021,
3 c. 548, §45, is further amended to read:

4 **2. Additional creditable service.** Additional creditable service is earned by a former
5 participant in a special plan as follows.

6 A. A member who has completed the service requirements for retirement under a
7 special plan, including a member who completes the requirements of section 17851-A,
8 subsection 2, paragraph A, may transfer to a position not under a special plan and earn
9 service credit for additional service retirement benefits.

10 (1) The part of the member's service retirement benefit based upon membership
11 service before being transferred must be computed according to the formula for
12 computing benefits under the special plan that the member was under previously.

13 (2) The part of the member's benefit based upon membership service after being
14 transferred must be computed in accordance with section 17852, subsection 1,
15 except that, if the member has completed 80% of the member's service under the
16 special plan, the member's benefit must be computed according to the formula for
17 computing benefits under the special plan that the member was under previously.

18 C. A member who has not completed the service requirements for retirement under a
19 special plan may transfer to a position not under a special plan and receive service
20 retirement benefits as follows. This paragraph does not apply to section 17851-A,
21 subsection 2, paragraph A.

22 (1) If the benefit is greater, the part of the member's service retirement benefit
23 based upon membership service before being transferred must be computed
24 according to the formula for computing benefits under the special plan that the
25 member was under previously.

26 (2) The part of the member's benefit based upon membership service after being
27 transferred must be computed in accordance with section 17852, subsection 1,
28 except that, if the member has completed 80% of the member's service under the
29 special plan, the member's benefit must be computed according to the formula for
30 computing benefits under the special plan that the member was under previously.

31 D. A member who has not completed the service requirements for retirement under a
32 special plan, including a member who completes the requirements of section 17851-A,
33 subsection 2, paragraph A, on becoming disabled as defined in section 17901, or, after
34 September 30, 1989, section 17921, and on becoming reemployed in a position not
35 under a special plan on retirement receives retirement benefits as follows.

36 (1) The part of the member's service retirement based on membership service
37 before becoming disabled must be computed according to the formula for
38 computing benefits under the member's previous special plan.

39 (2) The part of the member's service retirement based on membership service after
40 becoming reemployed in a position not under a special plan must be computed
41 according to the formula for computing benefits under the member's previous
42 special plan, except that, if the member has completed 80% of the member's
43 service under the special plan, the member's benefit must be computed according

1 to the formula for computing benefits under the special plan that the member was
2 under previously.

3 (3) If the member is found to be no longer disabled, as defined in section 17901,
4 or, after September 30, 1989, section 17921, the member may:

5 (a) Return to a position under the member's previous special plan; or

6 (b) Remain in the position that is not under a special plan and have the part of
7 the member's service retirement benefit based on post-disability service
8 computed in accordance with section 17852, subsection 1, except that, if the
9 member has completed 80% of the member's service under the special plan,
10 the member's benefit must be computed according to the formula for
11 computing benefits under the special plan that the member was under
12 previously.

13 (4) The chief executive officer may require that a member subject to this paragraph
14 undergo medical examinations or tests once each year to determine the member's
15 disability in accordance with section 17903 or, after September 30, 1989, section
16 17926.

17 (a) If the member refuses to submit to the examination or tests under this
18 subparagraph, the member's retirement benefit must be based on section
19 17852, subsection 1, until the member withdraws the refusal.

20 (b) If the member's refusal under division (a) continues for one year, all the
21 member's rights to any further benefits under this paragraph shall cease.

22 SUMMARY

23 This bill specifies that when a member of the Maine Public Employees Retirement
24 System in a position covered by a special plan transfers to a position that is not covered by
25 a special plan and has completed 80% of the member's service under the special plan, that
26 additional time in the position not covered by the special plan is calculated as though the
27 member had remained in the special plan.



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 185

S.P. 89

In Senate, January 13, 2023

**An Act to Reduce the Benefit Penalty Imposed on Career Educators
Who Retire After 35 Years of Service**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative BRENNAN of Portland and
Senators: RAFFERTY of York, TIPPING of Penobscot, Representative: ROEDER of Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §17851, sub-§3-B** is enacted to read:

3 **3-B. School administrator or teacher with creditable service of 35 years or more**
4 **in service at retirement.** A school administrator or teacher in service who has completed
5 35 or more years of creditable service qualifies for a service retirement benefit if the
6 member retires at any time after completing 35 years of service.

7 **Sec. 2. 5 MRSA §17852, sub-§3-C** is enacted to read:

8 **3-C. School administrator or teacher with creditable service of 35 years or more**
9 **in service at retirement; 10 years of creditable service on July 1, 1993.** Notwithstanding
10 subsection 3, the amount of the service retirement benefit for a school administrator or
11 teacher qualified under section 17851, subsection 3-B is computed in accordance with
12 subsection 1, except that the benefit is reduced by 2% for each year that the school
13 administrator's age or teacher's age precedes 60 years of age.

14 This subsection applies to members who, on July 1, 1993, have 10 years of creditable
15 service. For the purpose of calculating creditable service under this subsection, creditable
16 service includes time during which a member participated in the voluntary cost savings
17 plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter
18 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part
19 VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or
20 creditable service available to a member that the member was eligible to purchase on June
21 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

22 **SUMMARY**

23 This bill allows school administrators and teachers in service after 35 years of
24 creditable service to retire and collect retirement benefits and reduces those benefits by 2%
25 for each year that the school administrator's age or teacher's age precedes 60 years of age.



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 197

H.P. 121

House of Representatives, January 17, 2023

**An Act to Address Employee Retention at the Maine State Police
Crime Laboratory and the Computer Crimes Unit in the
Department of Public Safety**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative COLLINGS of Portland.
Cosponsored by President JACKSON of Aroostook and
Representatives: DANA of the Passamaquoddy Tribe, FAULKINGHAM of Winter Harbor,
Speaker TALBOT ROSS of Portland, Senators: HARRINGTON of York, HICKMAN of
Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §17851-A, sub-§1, ¶Q**, as enacted by PL 2021, c. 474, §5, is
3 amended to read:

4 Q. Civilian Until July 31, 2024, civilian employees whose job responsibilities include
5 the handling, examination or analysis of digital or physical evidence in the employment
6 of the Department of Public Safety, Maine State Police Crime Laboratory or computer
7 crimes unit on October 1, 2021 ~~who elect to participate in the 1998 Special Plan~~ or
8 hired thereafter.

9 **Sec. 2. 5 MRSA §17851-C** is enacted to read:

10 **§17851-C. Special plan for civilian employees in Department of Public Safety, Maine**
11 **State Police Crime Laboratory or computer crimes unit**

12 **1. Establishment and applicability.** Effective August 1, 2024, there is established a
13 special retirement plan for civilian employees in the Department of Public Safety, Maine
14 State Police Crime Laboratory or computer crimes unit, referred to in this section as "the
15 special plan." The special plan applies to civilian employees whose job responsibilities
16 include the handling, examination or analysis of digital or physical evidence in the
17 employment of the Department of Public Safety, Maine State Police Crime Laboratory or
18 computer crimes unit.

19 **2. Qualification for benefits.** A member employed in any of the positions described
20 in subsection 1 qualifies for a service retirement benefit after completing 25 years of
21 creditable service in that capacity, whether or not the creditable service included in
22 determining that the 25-year requirement has been met was earned under the special plan
23 established in this section or prior to its establishment.

24 **3. Purchase of service credit to be used for qualification for benefits.** This
25 subsection governs the use of purchased service credit in order to qualify for benefits under
26 this section. For the purpose of meeting the qualification requirement of subsection 2:

27 A. Service credit purchased by repayment of an earlier refund of accumulated
28 contributions following termination of service is included if the time to which the
29 refund relates was served in any one or a combination of the positions described in
30 subsection 1, regardless of whether the time was served before or after the
31 establishment of the special plan;

32 B. Service credit purchased under section 17760 is considered service under the special
33 plan; and

34 C. Service credit purchased other than as provided under paragraphs A and B is not
35 included.

36 **4. Computation of benefits.** The amount of the service retirement benefit for
37 members qualified under subsection 2 is 1/2 of the member's average final compensation
38 and an additional 2% of the member's average final compensation for each year of
39 membership service not included in determining qualification under subsection 2.

40 **5. Contributions.** Notwithstanding any other provision of subchapter 3, after July 31,
41 2024, a member in a position described in subsection 1 shall contribute to the State
42 Employee and Teacher Retirement Program or have pick-up contributions made at the rate

1 of 8.65% of earnable compensation until the member has completed 25 years of creditable
2 service as provided in this section and at the rate of 7.65% thereafter.

3 **SUMMARY**

4 This bill establishes a new special retirement plan for certain civilian employees in the
5 Department of Public Safety, Maine State Police Crime Laboratory and computer crimes
6 unit that allows those employees to retire after 25 years of service regardless of age.

**PART I
SUMMARY**

This Part authorizes the Department of Administrative and Financial Services to transfer by financial order available Personal Services balances in the Information Services program, General Fund account for fiscal year 2022-23 only, in order to fund statewide cybersecurity costs.

PART J

Sec. J-1. Transfer from General Fund unappropriated surplus. Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer \$6,600,000 from the unappropriated surplus of the General Fund to the Retirement Allowance Fund within the Maine Public Employees Retirement System for the purpose of providing the resources to fund an additional one-time cost-of-living increase of 1.0% of the established 2022 maximum benefit subject to an increase for retirees from the state-sponsored retirement plans. The additional 1.0% applies to retirement benefit payments, up to a maximum of \$24,186.25, for the one-year period ending August 31, 2022. This additional increase applies to retirees who were eligible for a cost-of-living adjustment in September 2022. The additional increase made pursuant to this section is a one-time payment and is not included in the calculation of future benefit adjustments.

**PART J
SUMMARY**

This Part authorizes the State Controller to transfer up to \$6,600,000 from unappropriated surplus of the General Fund to the Retirement Allowance Fund within the Maine Public Employees Retirement System and directs to Board to issue a one-time 1.0% retirement benefit payment.

PART K

Sec. K-1. 7 MRSA §3906-B, sub-§2 is amended to read:

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 80% of the feed registration fees collected under section 714, subsection 1 ~~and all revenue in excess of \$100,000 from the surcharge collected under section 714, subsection 4~~ in the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing license blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 313

S.P. 134

In Senate, January 30, 2023

**An Act to Ensure Consistency in Retirement Plans for Certain Law
Enforcement Officers**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator HICKMAN of Kennebec.

Cosponsored by Senators: BALDACCI of Penobscot, President JACKSON of Aroostook,
RAFFERTY of York, Representative: HASENFUS of Readfield.

January 23, 2023

Honorable Troy D. Jackson
President of the Senate
3 State House Station
Augusta, Maine 04333

Honorable Rachel Talbot Ross
Speaker of the House
2 State House Station
Augusta, Maine 04333

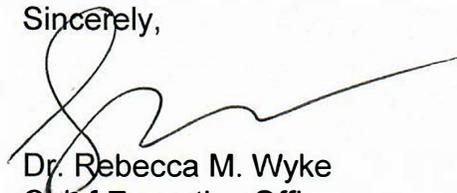
Dear President Jackson and Speaker Talbot Ross:

Pursuant to 5 M.R.S.A., Section 12023, please consider this the letter of transmittal for the required report from the Maine Public Employees Retirement System due by February 1, 2023.

Please contact me if you have any questions or need additional information.

Thank you.

Sincerely,



Dr. Rebecca M. Wyke
Chief Executive Officer

Enclosure

**Report of MainePERS Pursuant to 5 M.R.S. § 12023
for the period from July 1, 2021 to June 30, 2022**

A. Procurements

The Maine Public Employees Retirement System ("MainePERS") made the following procurements in excess of \$10,000 during the period from July 1, 2021 to June 30, 2022 under a waiver from MainePERS' competitive procurement policy or under a contract that predated the policy:

<u>Vendor</u>	<u>Total Paid</u>	<u>Type</u>	<u>Category</u>
1. Cheiron, Inc.	\$ 593,788	Actuary	Pre-Existing
2. Chapman & Cutler, LLP	\$ 387,241	Investment Counsel	Pre-Existing
3. Morgan, Lewis & Bockius, LLP	\$ 355,613	Investment Counsel	Pre-Existing
4. Tyler Technologies, Inc.	\$ 141,575	IT Security	Pre-Existing
5. Iron Mountain	\$ 40,479	IT Data Back-Up	Pre-Existing
6. Ice Miller LLP	\$ 33,328	Pension Counsel	Pre-Existing
7. The Hartford	\$ 1,153,348	Group Life Insurance	Waiver
8. Vitech Systems Group, Inc.	\$ 971,445	IT - Services	Waiver
9. Mythics, Inc.	\$ 157,716	IT - Software	Waiver
10. Korn Ferry Hay Group, Inc.	\$ 92,162	HR Services	Waiver
11. LogMeIn Communications, Inc.	\$ 56,369	IT - Services	Waiver
12. Absolute Capture, LLC	\$ 49,057	IT - Services	Waiver
13. Oracle America, Inc.	\$ 38,297	IT - Software	Waiver
14. Consolidated Communications, Inc.	\$ 25,898	IT - Services	Waiver
15. Dell Marketing LP	\$ 25,552	IT - Computers	Waiver
16. Bernstein Shur	\$ 21,866	Labor Counsel	Waiver
17. ADP, Inc.	\$ 18,512	Payroll Processing	Waiver
18. Adobe Systems, Inc.	\$ 18,199	IT - Software	Waiver
19. Northwind Ventures, Inc.	\$ 13,995	IT - Services	Waiver
20. Shield T3, LLC	\$ 12,635	Covid Testing	Waiver
21. ZOHO Corporation	\$ 12,291	IT - Software	Waiver
22. Peak Knowledge	\$ 10,328	IT - Services	Waiver

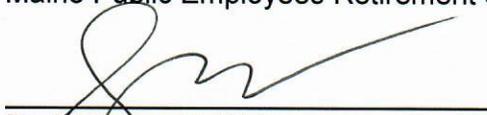
B. Contributions

MainePERS made no contributions during the period from July 1, 2021 to June 30, 2022.

C. Changes to Policies or Procedures

MainePERS has adopted policies and procedures in compliance with 5 M.R.S. § 12022. During the period covered by this report, MainePERS amended its procurement and travel policies to update position titles and to revise a reimbursement rate and an approval threshold amount. A copy of each policy as amended is attached. There were no other substantive changes during the period to the policies or procedures required by 5 M.R.S. § 12022 or to the procedures used by the MainePERS Board of Trustees to monitor compliance.

Maine Public Employees Retirement System



 Dr. Rebecca M. Wyke
 Chief Executive Officer

Dated: January 30, 2023

System Policy

3.1 – Procurement

Summary of Policy

The Maine Public Employees Retirement System (“System” or “MainePERS”) shall ensure that goods, services, materials, and property are procured prudently and in accordance with applicable laws and MainePERS Board of Trustees policies. Competitive procurement is established as the System’s standard procurement method. Documented waivers from this standard are permitted in certain circumstances. This Policy identifies those circumstances and outlines the procurement processes to be followed.

Statutory/Legal Provisions

- 5 M.R.S. §§12021, 12022, 12023
- 5 M.R.S. §17103(7)
- MainePERS Governance Manual, Board Policy 4.2, 5.3, 5.4

Departmental Responsibility

All procurement shall conform to the established budget, stated mission of pension administration, and applicable laws and regulations. The System shall make every reasonable effort to obtain all supplies, equipment and services at the lowest cost that meets required quality, including track record and industry knowledge where applicable, from the resources available at the time of procurement. Each department within the System shall exercise sound judgment and prudent business practices when procuring items, supplies, and services in accordance with the fiscal year’s budget. Responsibilities include participating in shared procurement with other departments for routine or recurring supplies and services whenever feasible and reviewing invoices to ensure cost control and alignment.

Competitive Procurement

Competitive procurement must be used to obtain goods, services, materials, or property unless an exception to this standard applies. Competitive procurement requires one of the following:

- A request for proposals (RFP) to be published on the MainePERS website and in the Kennebec Journal for at least three consecutive days ending at least 10 days before the bid deadline;
- An RFP to be sent to at least three qualified bidders a reasonable amount of time prior to the bid deadline; or
- Procurement under the same material terms obtained by the State of Maine from a vendor through a competitive process or by joining a multi-state contract.

MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Cost is always one of the selection criteria in competitive procurement and is ordinarily assigned a weight of at least 25%.

Exceptions to Competitive Procurement

Competitive procurement may be waived in the following situations:

- The total cost to MainePERS does not exceed \$10,000 in a fiscal year;
- Procurement is only available from one vendor;
- Procurement is available only on a single set of material terms regardless of the vendor because of reseller or similar restrictions;
- Using a different vendor from the vendor in a prior procurement would cause compatibility issues, significant delay, or unnecessary expense;
- There is insufficient time to perform competitive procurement of essential goods, services, materials, or property because of an emergency or other circumstances beyond the control of MainePERS;
- Competitive procurement would result in a violation of law or breach of fiduciary duty;
- The System is purchasing or leasing real property based on a market analysis including at least three available, suitable properties; or
- The System is hiring an investment manager after receiving approval of the Board of Trustees based on an investment staff recommendation that included an evaluation of the manager's performance and fees relative to peers.

Waivers to competitive procurement must be documented, including the justification for the waiver. This documentation must be maintained for at least five years after the waiver was granted. Procurement that does not exceed \$10,000 in a fiscal year is exempt from the documentation requirements.

Procurement Approval

All RFPs, waivers to competitive procurement (except for investment managers approved by the Board of Trustees), and contracts must be reviewed by the General Counsel or Compliance Officer for compliance with legal and policy requirements and by the Director of Finance or Accounting Manager for budgetary compliance and approved in writing by a member of Senior Management. If the amount to be expended exceeds \$50,000, the approving authority is the Chief Executive Officer.

Ownership

This System Policy is owned by the Chief Operating Officer.

Adopted May 19, 2014; Amended and Restated July 20, 2020; Amended August 3, 2021.


Sandra J. Matheson
Chief Executive Officer

Administrative Governance

3.2 - Travel

Summary of Policy

The Maine Public Employees Retirement System (System) shall ensure fiscal and budgetary responsibility through compliance for authorization, travel, reporting and reimbursement of travel and related expenses incurred for the purpose of conducting System business.

Statutory/Legal/Board Policy Provisions

5 M.R.S. §17103

3 M.R.S. §951 *et seq.*

3 M.R.S. §991 *et seq.*

5 M.R.S. §12021 *et seq.*

Definitions

Gift - any gratuity, discount, entertainment, hospitality, loan, forgiven debt, or other tangible or intangible item having monetary value greater than \$35. A gift includes, but is not limited to 1) cash 2) food and beverages and 3) honoraria and travel expenses for engagements for the purpose of influence. A "gift" does not include food or beverages provided in connection with a business meeting, educational seminar, conference or convention.

Travel Procedures

All travel shall be conducted for official System business by System employees for which travel is part of their work, for meetings related to official System business, or for education deemed necessary to maintain required skills or knowledge.

Pre-Travel Authorization

Travel may be authorized when it is consistent with the mission of MainePERS and sufficient budget exists to cover the anticipated costs. Generally, staff travel for the purpose of conducting System business must be scheduled and approved in advance by the employee's supervisor using the Federal Travel Regulations Lodging and Per Diem schedule as applied in this policy:

- In-state travel requiring overnight accommodations must be pre-approved in writing;
- Out of state travel must be pre-approved by the Chief Executive Officer or designee and the employee's supervisor in writing;
- Lodging that will exceed the GSA published rates at <http://www.gsa.gov/portal/content/110007> must be approved in advance of the travel and may be approved up to 250% of the published rates under the following circumstances:
 - No rooms maintaining traveler safety are available within reasonable travel distance using safe travel services to the location where System business is being conducted;

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- Lodging has been procured at a prearranged place such as a hotel where the meeting or conference is being held and convenient and safe alternative lodging is not available;
- Other reasons approved in advance by the Chief Executive Officer or designee.
- Request for reimbursement for actual meal expenses must be made in advance of the travel if the specific circumstances of the travel will require meal costs in excess of the per diem. Circumstances justifying this request would be unusual and not anticipated.

Travel Expenses

System business shall be incurred using the Federal Travel Regulations “lodging plus per diem” method contained in 41 Code of Federal Regulations (CFR), Chapters 300 through 304.

Allowable Transportation Expenses

Transportation expenses, including fares, rental fees and mileage reimbursement for use of a personal vehicle are allowed. The method of transportation used must be that method that is most advantageous to the System, taking into account travel time and time lost from work, actual cost of transportation, safety of the traveler, and any other relevant factors.

When traveling by air, employees will be reimbursed for coach class accommodations unless granted a pre-approved exception for business-class for health reasons or lack of seating availability. A physician’s note must be provided if using business class for health reasons. A traveler may upgrade to business-class or first-class at his or her personal expense.

When arranging for transportation, authorized travelers should consider the usually traveled route for the trip. Travel outside of the usually traveled route must be pre-approved and must be for the benefit of the System. Additional costs incurred as a result of traveling outside of the usually traveled route without specific approval are the responsibility of the traveler.

When a traveler is pre-approved to use their personal vehicle, mileage will be reimbursed at the optional standard mileage reimbursement rates then in effect used by the Internal Revenue Service to calculate the deductible costs of operating a motor vehicle for business purposes for the shortest route between destinations determined by an Internet map service. (Google Maps, MapQuest, etc.)

Receipts for transportation expenses are required.

Local Transportation Expenses

Local transportation costs (cab fare, bus fare, subway, etc.) are allowable provided the transportation is between the traveler’s place of lodging and the airport or other common carrier and between the traveler’s place of lodging and places of business on an official trip. Local transportation costs may also be allowable for the purpose of obtaining meals while travelling on official business, provided there are no places to obtain meals at the place of business or approved place of lodging.

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Rental cars may be used if there is no available local transportation, traveler safety is a concern, or the cost of the rental car and related expenses such as parking are less than safe available local transportation. When using a rental car, travelers are encouraged to purchase the collision damage waiver coverage and supplemental liability coverage offered by the rental agency to cover damage to the rental vehicle as well as other vehicles or property in the event of an accident. Additional incidental and reimbursable travel costs may include tolls, tips, or parking fees associated with the particular mode of travel. Travelers must provide receipts when available to substantiate these costs.

Receipts for local transportation expenses are required unless they are unavailable for incidental travel expenses, generally not exceeding \$50.

Allowable Lodging Expenses

Generally, lodging must be in conventional lodging facilities, including hotels, motels, etc. Lodging for domestic travel will be reimbursed at the single occupancy rate up to the allowable GSA rate published at www.gsa.gov/perdiem or successor site, or up to 250% of the published rates if approved in advance of the travel under specific circumstances listed under *Pre-Travel Authorization*. If the city or the county in which the city is located are not listed, then a standard rate of \$96 per night applies.

Domestic lodging taxes and other lodging charges are not included in the GSA travel per diem rate. Lodging taxes and other lodging charges paid by the traveler are reimbursable as a miscellaneous travel expense limited to the taxes on reimbursable lodging costs and do not affect whether or not the lodging costs meet the GSA published rates.

Lodging for foreign travel will be reimbursed at the single occupancy rate up to the allowable State Department rate published at http://aoprals.state.gov/web920/per_diem.asp or successor site. Lodging taxes *have not* been removed from the established foreign per diem rates. Other lodging charges paid by the traveler are reimbursable as a miscellaneous travel expense and do not affect whether or not the lodging costs meet the GSA published rates.

Receipts for lodging are required and must be itemized to include dates of stay, room rates and taxes, and any other lodging charges (telephone, internet connectivity, meals, etc.).

Meals and Incidental Expenses (M & IE)

Travelers traveling away from home when an overnight stay is required will receive a standard meal allowance for Meals and Incidental Expenses. This allowance will be reimbursed using the Government Services Administration per diem rate for meal and incidental expenses for the city or locality of the traveler's destination listed in Attachment 1, or at www.gsa.gov/mie or successor site. If the city, or the county in which the city is located, are not listed, then a standard rate of \$59 per day for meals and incidental expenses applies.

In limited circumstances, if a traveler is traveling away from home for more than twelve hours, and no overnight stay is required, the System may provide a standard meal allowance for the day, with the amount to be determined based on the time the official travel begins and ends. In these circumstances, the amount of the allowance will be determined

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using the same time travel bands as used for the first and last day of travel (see attachment 1). In these circumstances, the System will reimburse the allowance and add the amount of that allowance to the traveler's form W-2 as wages, in keeping with IRS regulations.

With the exception of meals provided by a common carrier (airline, rail service, etc.) or complimentary meals provided by a hotel or other lodging establishment (continental breakfasts, etc.), the M & IE allowance will be reduced for meals provided at the destination. For example, if attending a conference at which meals are provided as part of the program at no cost to the traveler, the traveler cannot also request a meal allowance for that meal. The cost of meals for guests is not reimbursable.

The M&IE rate includes taxes and tips in the rate. Incidental expenses include items such as fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships.

Receipts for meal expenses are not required unless *Pre-Travel Authorization* for reimbursement using actual expenses has been obtained. Approval may be made after the travel if receipts are available and the circumstances are approved by the Executive Director or designee. Circumstances justifying this request would be unusual and not anticipated. The traveler will be expected to pay the difference between the *Pre-Travel Authorization* and expenses incurred if circumstances do not justify the expense.

Miscellaneous Expenses

Other expenses incurred while traveling on official System business may be reimbursed provided the expenses are reasonable and necessary for conducting the System's business while away. Examples of other expenses include use of phones, faxes, or internet access.

Claims for reimbursement of Miscellaneous Expenses must be substantiated by providing a receipt itemizing the expense.

Unallowable Expenses

The following types of travel-related expenses are specifically not allowable.

- Alcoholic beverage expenses.
- Personal expenses, including personal entertainment expenses such as movie rental charges, or other expenses considered non-essential to official System business.

Gifts and Travel Subsidies

Acceptance of gifts while traveling is strongly discouraged. Acceptance of gifts in excess of \$35 is not allowed. Gifts in excess of \$35 must be provided to the System for distribution to charity or other appropriate parties. In the context of traveling, gifts might include marketing materials provided by vendors such as mugs with logos, or welcome bags at conferences containing samples of locally themed items.

Meals, lodging and entertainment provided by vendors are allowed if reimbursed by the System. The cost of these items must comply with the limitations in this policy.

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Travel subsidies must be evaluated prior to the travel authorization. Travelers are required to disclose all travel subsidies prior to obtaining *Pre-travel Authorization*. Travel subsidies include lodging rates subsidized by vendors to enable MainePERS compliance with GSA rates or free or reduced cost meals. Use of subsidized lodging or meals to specifically influence MainePERS procurement decisions is prohibited. Use of subsidized lodging or meals as part of a general industry conference is generally discouraged and unallowable except when approved in the *Pre-Travel Authorization*.

Combining Personal Travel with Business Travel

When vacation is combined with a business trip, the travel may be reimbursed as business travel only when it is clearly established that the business travel is the primary purpose and the vacation incidental.

When personal time extends the traveler's stay at the business location either prior to or after the business activity, the entire transportation cost may be reimbursed. If any other destination, other than normal connecting points, is included on the ticket that is not related to the business activity, the amount reimbursed will be the fare directly related to the point(s) of business based on the fare class used. The traveler must obtain a quote at the time the ticket is purchased showing what that rate would be and submit this with the expense report.

Car rental expenses must be pro-rated based on the number of days dedicated to business use. Lodging will be reimbursed for those nights where the business activity and travel considerations justify overnight stay. An itemized receipt from the lodging facility showing the dates of occupancy must be submitted with the expense report.

Miscellaneous expenses including parking fees must be reduced for personal day expenses. Ground transportation expenses for personal days including taxis, subways and busses are not reimbursable. When the personal portion of the trip is either at the beginning or the end of a combined trip, a traveler is considered to be traveling for business on both the day of departure and the last day of travel and allowable expenses incurred on those days are reimbursable.

No M & IE allowances are permitted for any day an employee is completely in personal time status.

Local Travel

Travelers may be reimbursed for local travel at the optional standard mileage reimbursement rates then in effect used by the Internal Revenue Service to calculate the deductible costs of operating a motor vehicle for business purposes for System business when traveling to destinations other than their permanent work assignment. It is not the intent of the System to reimburse for what would otherwise be commuting expenses. For travelers who are travelling between their home and a temporary work site, reimbursement will be for the lesser of the miles between their home and the temporary work site or between their permanent work site and the temporary work site. Miles travelled between a permanent work site and a temporary work site is always reimbursable.

Example #1 - A traveler lives in Winthrop and his permanent work site is in Augusta, 12 miles away. He is asked to work in Portland for a day, which is 63 miles from his home in

MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Winthrop and 56 miles from his permanent work site in Augusta. If he travels from home to Portland and back, he should request reimbursement for the lesser of the two distances, or 56 miles each way.

Example #2 – The same traveler in example #1 above reports to his permanent work site in Augusta for the morning. At noon, he leaves for Portland for the afternoon, which is 56 miles from his permanent work site. He then returns home from Portland. The traveler in this case is entitled to no reimbursement for his commute to Augusta in the morning. He is entitled to reimbursement of the 56 miles driven between Augusta and Portland as this travel is between a permanent work site and a temporary work site. He is also entitled to reimbursement for 56 miles for the return trip, which is the lesser of the miles between home and Portland (63 miles) and between Portland and Augusta (56 miles).

Example #3 – A traveler lives in Biddeford and his permanent work site is in Augusta, 73 miles away. He reports to his permanent work site in Augusta in the morning. At noon he leaves for Portland for the afternoon, which is 56 miles from his permanent work site. He then returns home from Portland, a trip of 18 miles. The traveler in this case is entitled to no reimbursement for his commute to Augusta in the morning. He is entitled to reimbursement for the 56 miles between Augusta and Portland and for 18 miles for the return trip, which is the lesser of the miles between home and Portland (18 miles) and between Portland and Augusta (56 miles).

Travelers will not receive a standard meal allowance for local travel unless an overnight stay is required for business reasons. In the event of overnight stay, travelers will receive a standard meal allowance to be reimbursed using the Government Services Administration per diem rate for meal and incidental expenses for the city or locality of the traveler's destination listed in Attachment 1, or at www.gsa.gov/mie or successor site.

Telecommuting

Staff who are authorized or assigned to work remotely will be assigned a permanent work site which is not their home based on their position. In the event that staff who are working remotely are required to report to their permanent work site for in person meetings, equipment service, or any other reason, travel to that permanent work site will be considered commuting and will not be reimbursed under this policy.

Reimbursement

A traveler is required to submit an expense report upon completion of travel in accordance with procedures established and administered by the Accounting & Finance Department. Requests for reimbursement should be made within 60 days of completing the travel and incurring the expenses. Requests for reimbursement made beyond 60 days must be accompanied by a written explanation as to why the request was delayed. The explanation must be signed by both the traveler and the traveler's supervisor.

In the event that a traveler received an advance, the traveler must substantiate expenses by submitting an expense report upon completion of the travel and return any excess funds. Excess funds not returned within 120 days of the completion of the travel will be considered income and reported to the IRS as appropriate.

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Approval

All System travel shall be approved by an individual having sufficient knowledge of relevant law and statutes, MainePERS rules, policies and procedures (including the Code of Ethics) and the Federal Travel Regulations. The individual authorizing the reimbursement of travel-related expenses is responsible for assuring, or designating a responsible party for assuring, that the costs have been evaluated and

- The travel has been completed;
- The completed travel has been properly documented in accordance with procedures established by this policy;
- The expenses have been incurred.

Reimbursement

The Accounting and Finance Department shall reimburse properly incurred and approved travel expenses, ensuring that the Travel Authorization and Travel Expense Report are consistent.

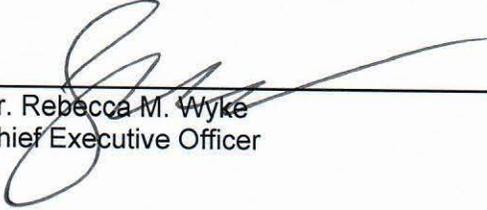
Board of Trustees

The System shall provide the Finance and Audit Committee of the Board with an annual budget that includes a specific category for travel and related expenses. The System shall also provide the Finance and Audit Committee of the Board with a semi-annual and annual report listing the actual travel and costs that have been incurred within that budget. The Finance and Audit Committee of the Board shall provide the Board of Trustees with the budget including travel and related expenses and the two travel reports.

Ownership

This Administrative Policy is owned by the Director of Finance.

Adopted February 1, 2013; Approved as amended January 11, 2017; January 17, 2018; October 17, 2018; November 13, 2019; May 19, 2020; May 23, 2022



Dr. Rebecca M. Wyke
Chief Executive Officer

MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Attachment 1 - Meals and Incidental Expenses (M&IE) Breakdown

www.gsa.gov/mie

The following table is provided for employees who need to deduct provided meals from their daily meals and incidental expense (M&IE) allowance. The table lists the six M&IE tiers in the lower 48 continental United States (currently ranging from \$59 to \$79). Find the amount corresponding to the allowable M&IE rate on the first line of the table (M&IE Total) and then look below for each specific meal deduction amount.

The table also lists the portion of the M&IE rate that is provided for incidental expenses (currently \$5 for all tiers), as well as the amount employees receive for the first and last calendar day or travel. The first and last calendar day of travel is calculated based on the time of day the travel begins (first day) or ends (last day) based on the table which follows.

M&IE Total	\$59	\$64	\$69	\$74	\$79
Continental Breakfast / Breakfast	\$13	\$14	\$16	\$17	\$18
Lunch	\$15	\$16	\$17	\$18	\$20
Dinner	\$26	\$29	\$31	\$34	\$36
Incidental Expenses (I/E)	\$5	\$5	\$5	\$5	\$5

First Day	Travel Begins	Breakfast	Lunch	Dinner	I/E
	Before 7:00 am	Yes	Yes	Yes	Yes
	After 7:00 am but before noon	No	Yes	Yes	Yes
	After noon but before 5:00 pm	No	No	Yes	Yes
Last Day	Travel Ends	Breakfast	Lunch	Dinner	I/E
	Before Noon	Yes	No	No	Yes
	After noon but before 5:00 pm	Yes	Yes	No	Yes
	After 5 pm	Yes	Yes	Yes	Yes



Maine PERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

**Briefing to the Joint Standing Committee on
Appropriations and Financial Affairs
January 30, 2023**

Dr. Rebecca Wyke, CEO
Michael Colleran, COO/General Counsel
Kathy Morin, Director of Actuarial and Legislative Affairs

Presentation Outline

- ▶ About MainePERS, p 3
- ▶ Defined Benefit Plans, p 12
- ▶ Maine's State/Teacher Plan, p 16
- ▶ Appendix, p 24
 - ▶ Other Historic Views, p 25
 - ▶ Other Projection Views, p 29
 - ▶ NASRA Peer Comparisons, p 32
 - ▶ Valuation Reports, p 38
 - ▶ State/Teacher Plan
 - ▶ Legislative Plan
 - ▶ Judicial Plan
 - ▶ Participating Local Districts Plan

About MainePERS



Statutory Purpose

- ▶ “The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to retirees...” through the retirement programs administered by **MainePERS** 5 M.R.S. §17151

Benefits Administered

▶ **Defined Benefit Plans**

- ▶ Service Retirement and Disability Retirement
- ▶ Provide a lifelong income stream in retirement based on years worked, final average salary and age at retirement
 - ▶ State sponsored plans: State/Teacher, Legislative and Judicial
 - ▶ Participating Local District plans

▶ **Defined Contribution Plans - MaineSTART**

- ▶ Provide a variable retirement benefit based on employee contributions

▶ **Group Life Insurance**

- ▶ Provide basic, supplemental, and dependent coverage



Participating Employers & Members

- ▶ MainePERS has approximately 600 employers
 - ▶ State, county and municipal governments
 - ▶ School districts
 - ▶ Others

- ▶ MainePERS has over 160,000 members
 - ▶ 52,717 active members
 - ▶ 60,672 inactive members
 - ▶ 49,166 retired members and beneficiaries

Board of Trustees

- ▶ State law specifies the composition of the 8-member Board:
 - ▶ Two are System members
 - ▶ One proposed/elected by the Maine Education Assoc
 - ▶ One proposed/elected by the Maine Service Employees Assoc
 - ▶ One is a member/retiree of a participating local district (PLD) appointed by the Maine Municipal Association
 - ▶ Four are appointed by the Governor
 - ▶ One a retiree selected from a list of nominees by the Maine Retired Teachers Association
 - ▶ One a retiree selected from a list of nominees by State and/or PLD retirees, or the Maine Association of Retirees
 - ▶ Two are appointed by the Governor knowledgeable in investments, accounting, banking, insurance or as actuaries
 - ▶ Treasurer of State is ex-officio

Strategic Plan *-adopted by Board of Trustees August 11, 2022*

Goals

- I. Preservation of the Trust Fund
- II. Stability of the contribution rates
- III. Security and integrity of our information systems
- IV. Cultivation of a member-centric organization
- V. Development of stakeholder relations
- VI. Foster an engaged workforce that advances the organization's mission

<https://www.mainebers.org/about/strategic-plan>

Strategic Plan cont.

Mission

MainePERS partners with public employers to deliver retirement and related services.

Vision

MainePERS is a trusted and effective fiduciary focused on meeting the needs of active and retired members, beneficiaries and employers.

Values

Accountability - Respect - Collaboration

Stewardship - Agility

Maine's Constitution Guards the State/Teacher Plan

- ▶ Article IX, Section 18 limits the use of MainePERS trust funds to the “**exclusive benefit**” of members as pension plan recipients
- ▶ The Constitution further safeguards the plan by requiring:
 - ▶ The unfunded actuarial liability (UAL) on new benefits be funded at the time the liability is created
 - ▶ Experience losses be retired within 20 years
 - ▶ Normal costs be funded annually on an actuarially sound basis, and
 - ▶ The 1996 UAL be retired by 2028

Federal and State Laws & Regulations

- ▶ The “exclusive benefit rule” is also reflected in:
 - ▶ Maine Uniform Trust Code *18-B M.R.S. §802(1) & 5 M.R.S. §17153(3)*
 - ▶ Federal statutes and regulations that qualify MainePERS defined benefit plans for federal tax deferment *26 U.S.C. §401(a)(2) & 26 C.F.R. §1.401-2(a)(3)*
- ▶ The Maine Uniform Prudent Investor Act *18-B M.R.S. §902(1)*
 - ▶ Requires MainePERS to invest and manage trust assets as a prudent investor would
- ▶ Title 5, Part 20, State Retirement System

Defined Benefit Plans



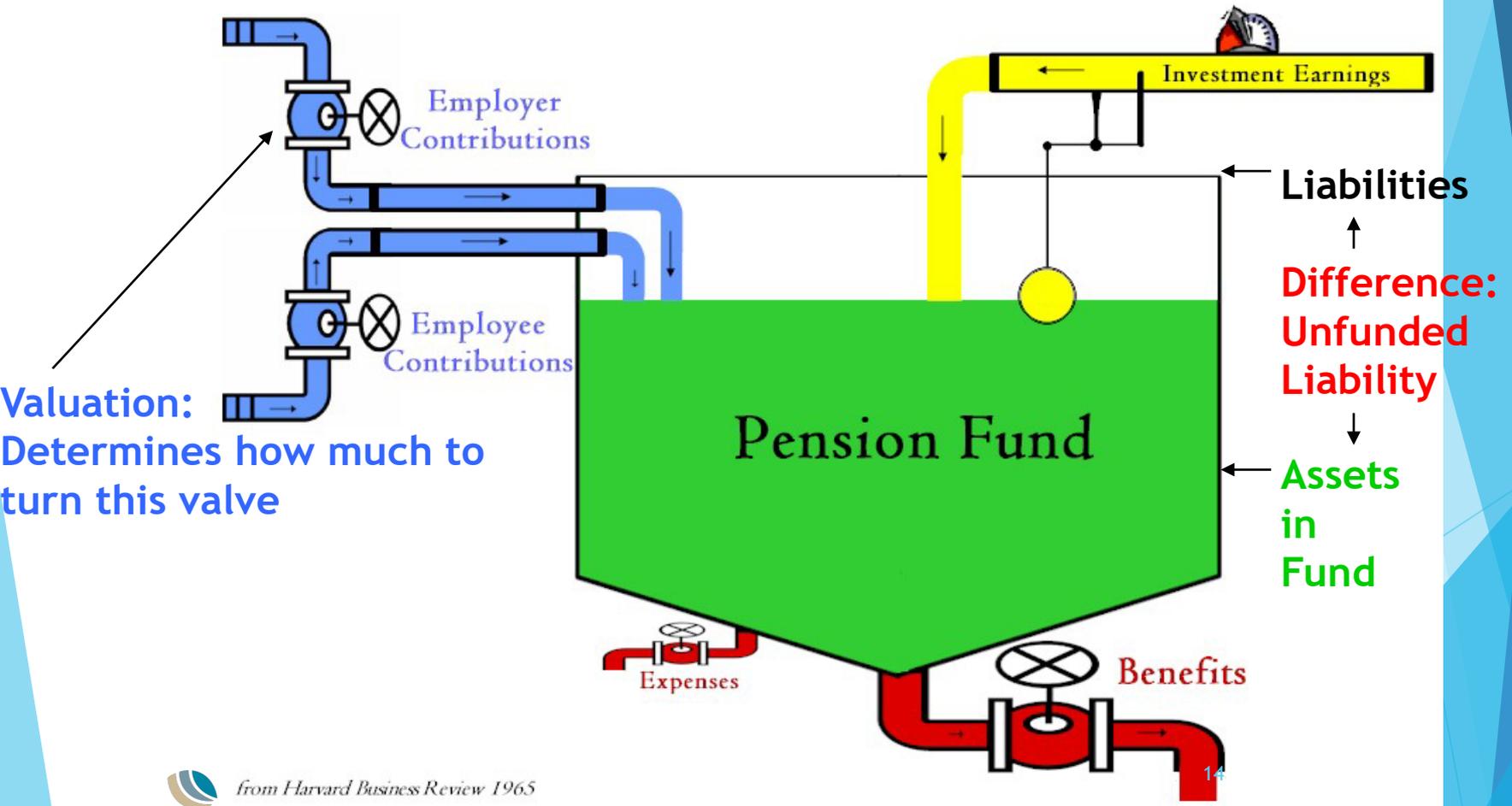
Defined Benefit Plans

- ▶ Provide members with a fixed benefit throughout retirement
- ▶ Fixed benefit is generally calculated using:
 - ▶ The average of highest 3 years of salary (AFC)
 - ▶ The number of years worked under the plan (service credit)
 - ▶ A multiplier of 2%
- ▶ Special Plans typically permit retirement with fewer years of service, at an earlier age, and/or with a different multiplier
- ▶ The monthly retirement benefit at normal retirement age is:
$$\text{AFC} \times \text{service credit} \times \text{multiplier} \div 12 = \text{monthly benefit}$$

Example: \$60,000 X 20 yrs X .02 = \$24,000/12 = \$2,000
- ▶ State of Maine plans offer a variable cost-of-living adjustment subject to a COLA base and a COLA cap



Actuarial Valuation & UAL



 from Harvard Business Review 1965

Defined Benefit Plan Costs

Normal Costs (NC)

- ▶ Cost that covers retirement benefits earned in the current year
- ▶ If nothing changes, normal costs will cover the full cost of each member's retirement benefit throughout their life

Unfunded Actuarial Liability (UAL)

- ▶ UAL costs are calculated to restore full funding if trust fund losses have occurred

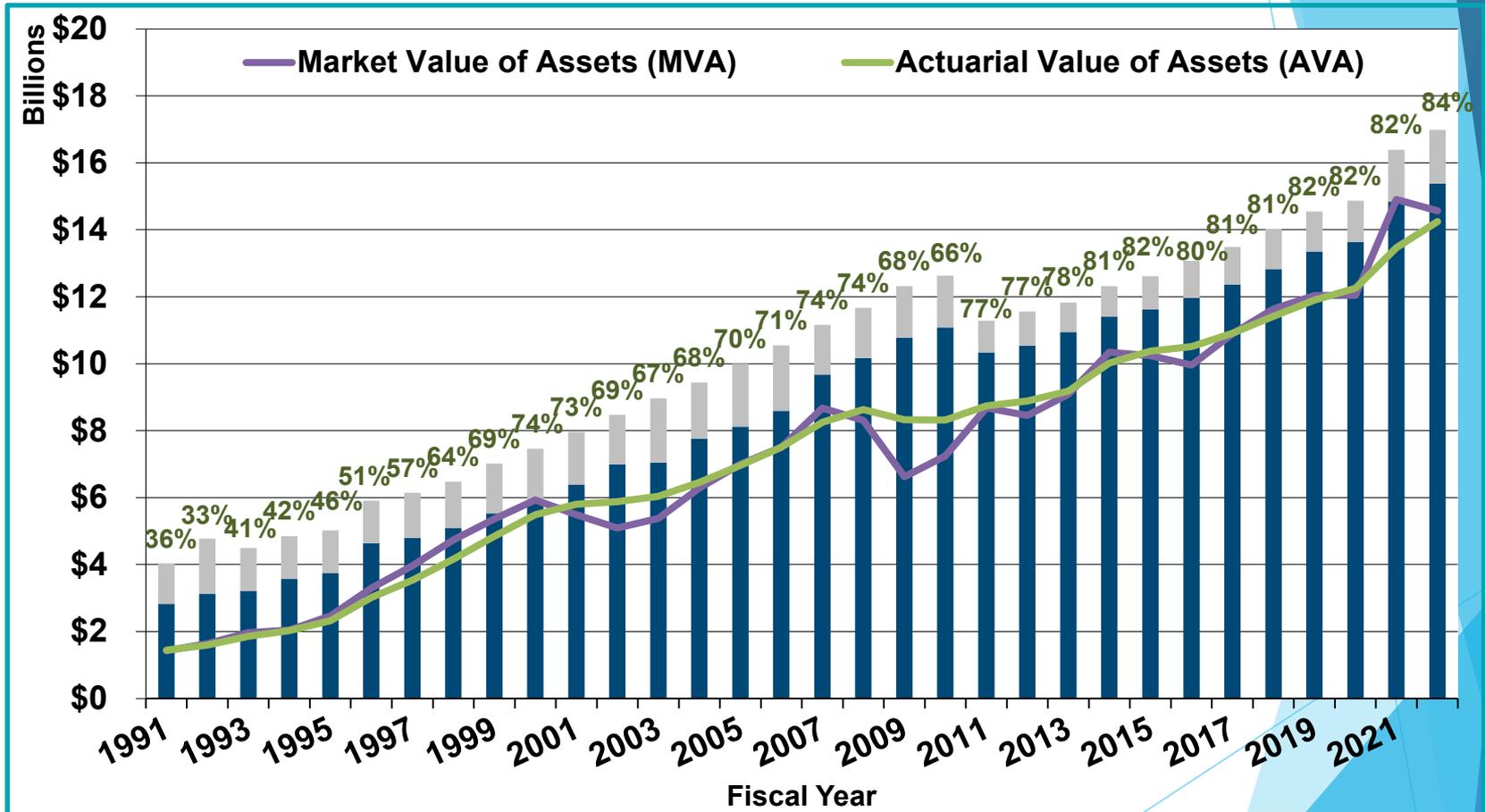
Events That Can Impact Costs

- ▶ Investment Losses
- ▶ Inflation/Deflation
- ▶ Unfunded Benefit Increases*
- ▶ Longevity Increases
- ▶ Employment Trends
- ▶ NC/UAL Payments not made*

Maine's State/Teacher Defined Benefit Plan



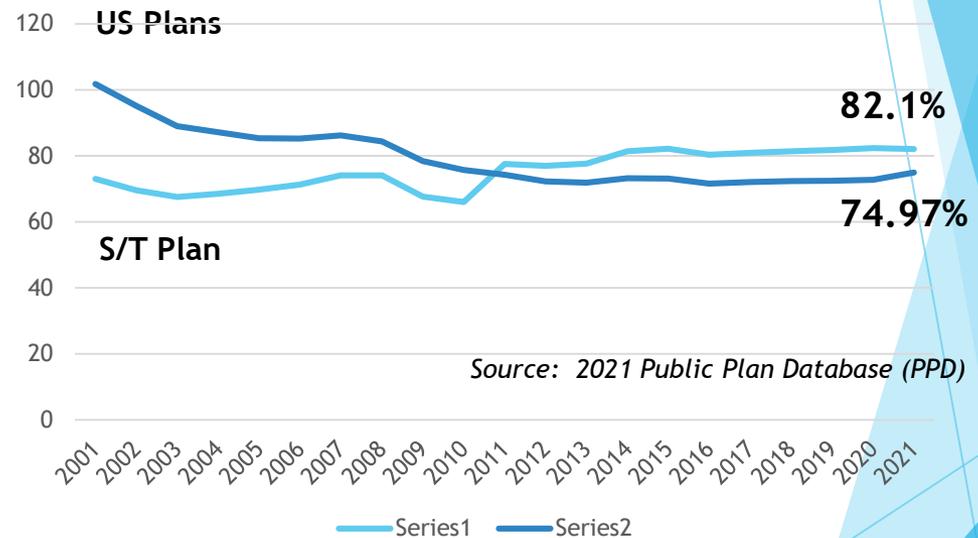
State/Teacher Funding History



How Does the S/T Plan Compare?

- ▶ The S/T Plan is well funded compared to the average of public pension plans, and is in the top 25th percentile of all public plans
- ▶ In FY22, Maine's S/T Plan is 83.9% funded

S/T and US Plan Funding Levels

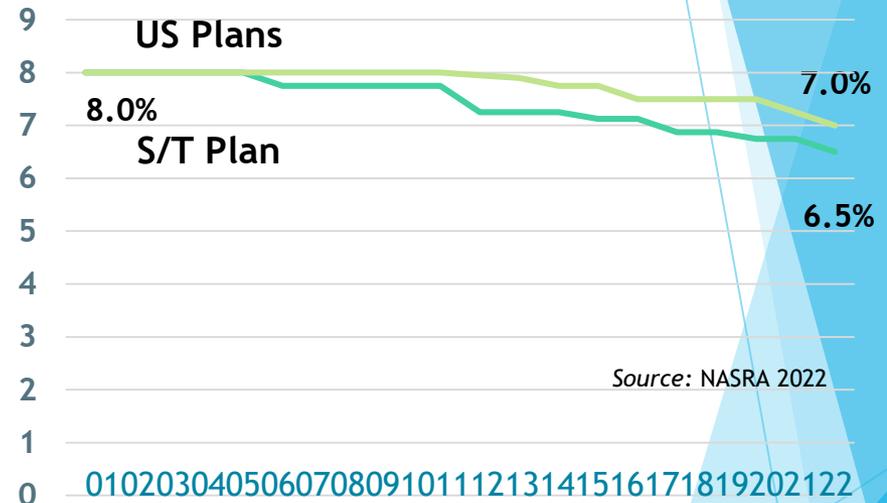


S/T Plan Earnings Assumption

Lowering Risk

- ▶ MainePERS has lowered risk by lowering the earnings assumption
 - ▶ Annual costs increase, because less is anticipated to be earned
 - ▶ However the earnings assumption is more likely to be met, therefore strengthening the plan
- ▶ Most states are working towards the MainePERS' rate, U.S. median currently at 7.0%

Plan Earnings Assumptions

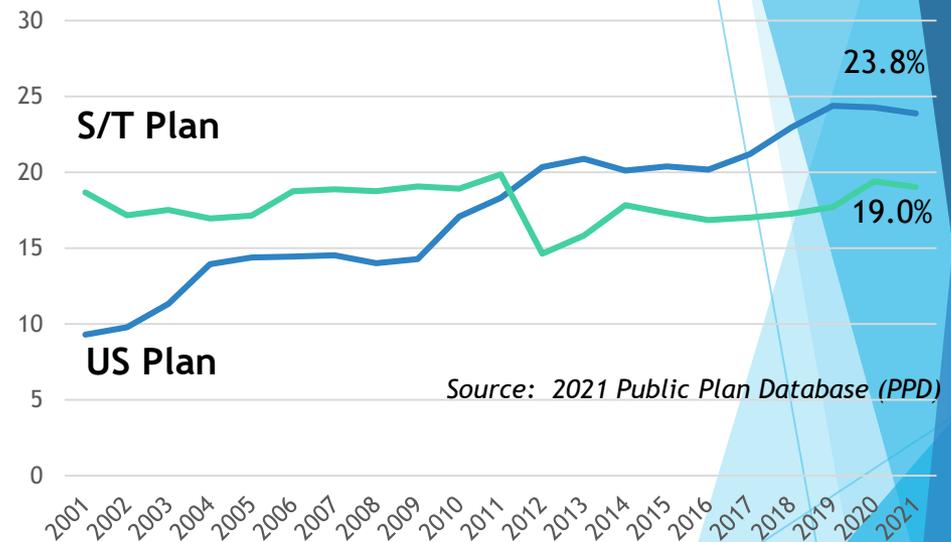


S/T Plan Contribution Rates

Stabilizing Rates

- ▶ S/T plan rates have stayed consistent over time because:
 - ▶ The UAL for new benefits must be funded at the time created
 - ▶ The State of Maine has consistently paid the full normal and UAL costs (ARC, Annual Required Contribution)
 - ▶ MainePERS has been de-risking the plan

S/T Plan ARC v US Plans Average as a % of Payroll



S/T Plan FY2022 Valuation

Investment Return

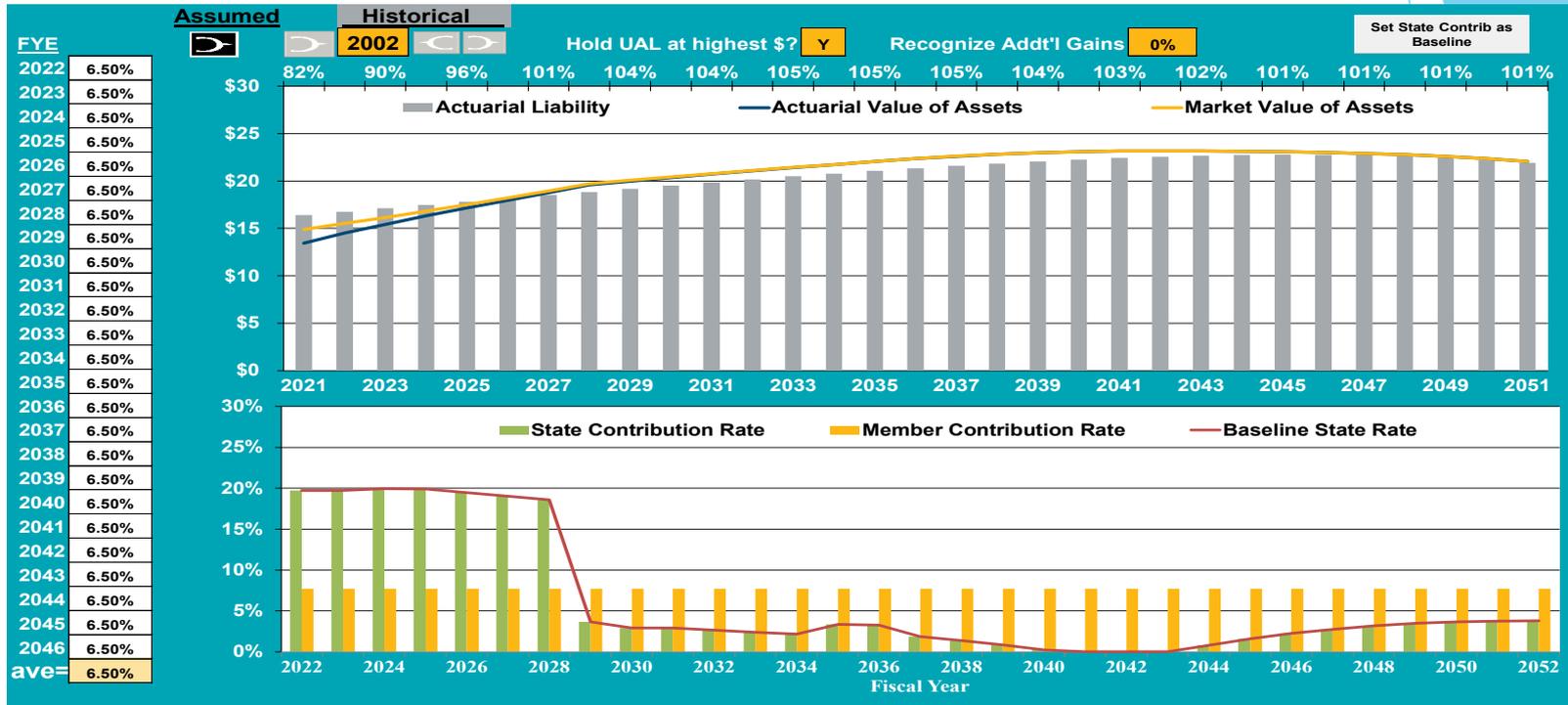
- ▶ Market Value of Assets basis, -0.62%
- ▶ Actuarial Value of Assets basis, 7.7%

Actuarial Funded Ratio, 83.9%

Actuarial Calculated Contribution Rate, 20.65%

S/T Plan Funding Projection

- ▶ In 2028, the 1996 UAL will be fully retired



All State Sponsored Plan Costs for FY24 & FY25

- By law, the annual state contribution towards the 1996 UAL may not be lower than the previous year

	6/30/20 (FYs 2022-2023)	6/30/22* (FYs 2024-2025)	Increase
Normal	\$176,278,025	\$230,543,751	\$ 54,265,726
UAL	<u>\$685,107,220</u>	<u>\$747,542,411</u>	<u>\$ 62,435,191</u>
Total	<u>\$861,385,245</u>	<u>\$978,086,162</u>	<u>\$116,700,917</u>

*Total costs include approximately \$171M that will be paid by local school units.

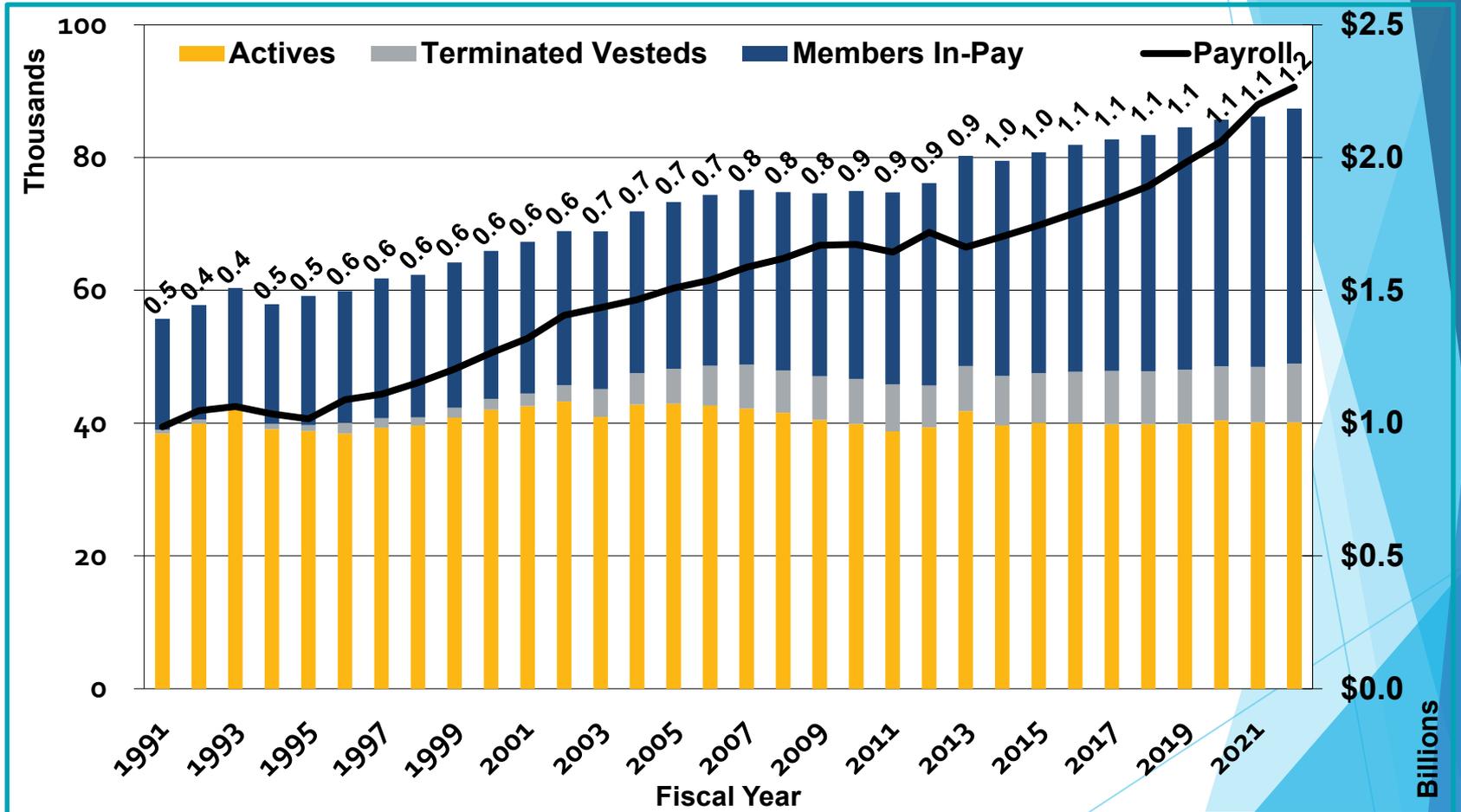
Appendix



Other Historical Views

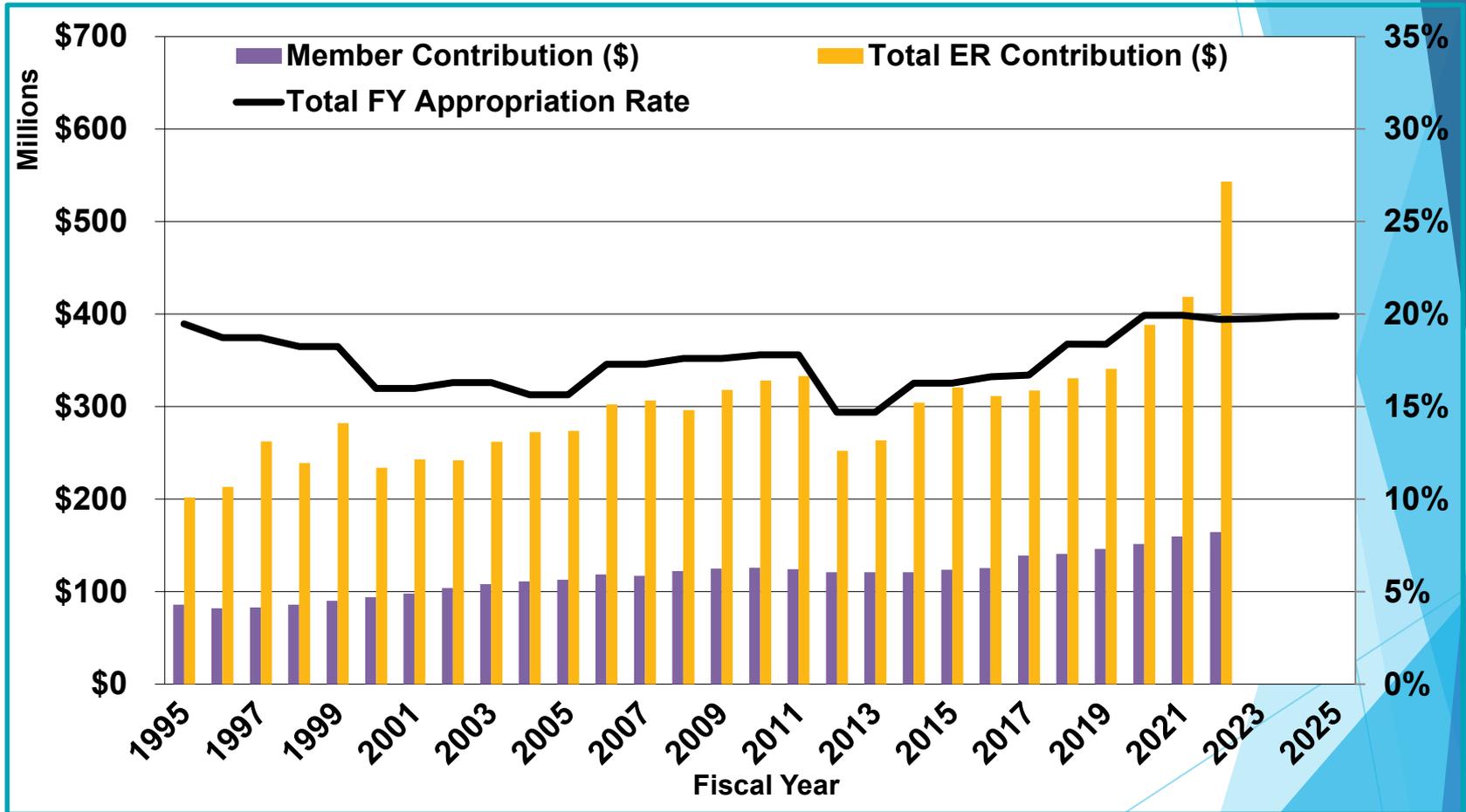


State/Teacher Membership



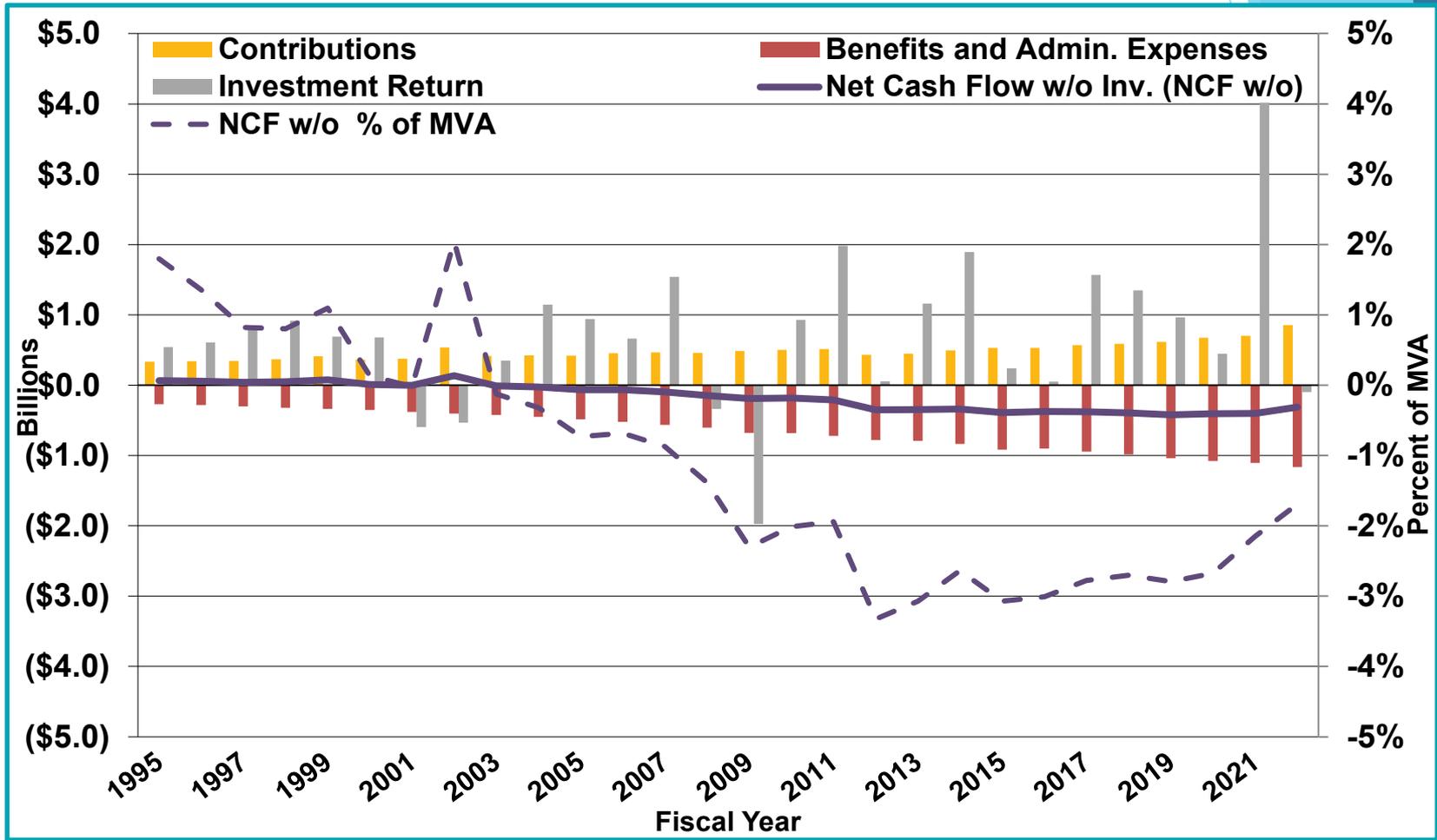
source: Cheiron 26

State/Teacher Contributions



source: Cheiron 27

State/Teacher Cash Flows

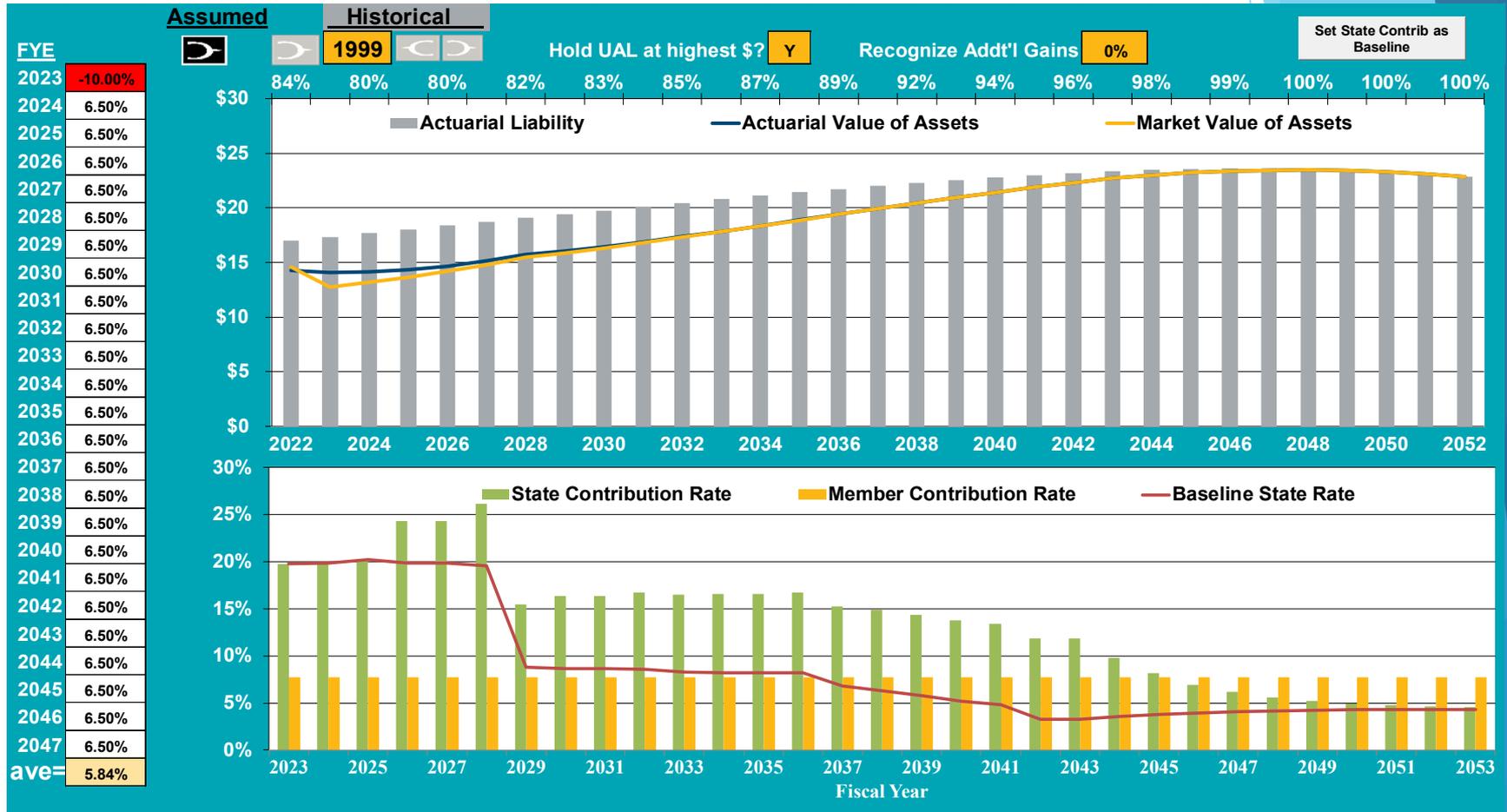


source: Cheiron 28

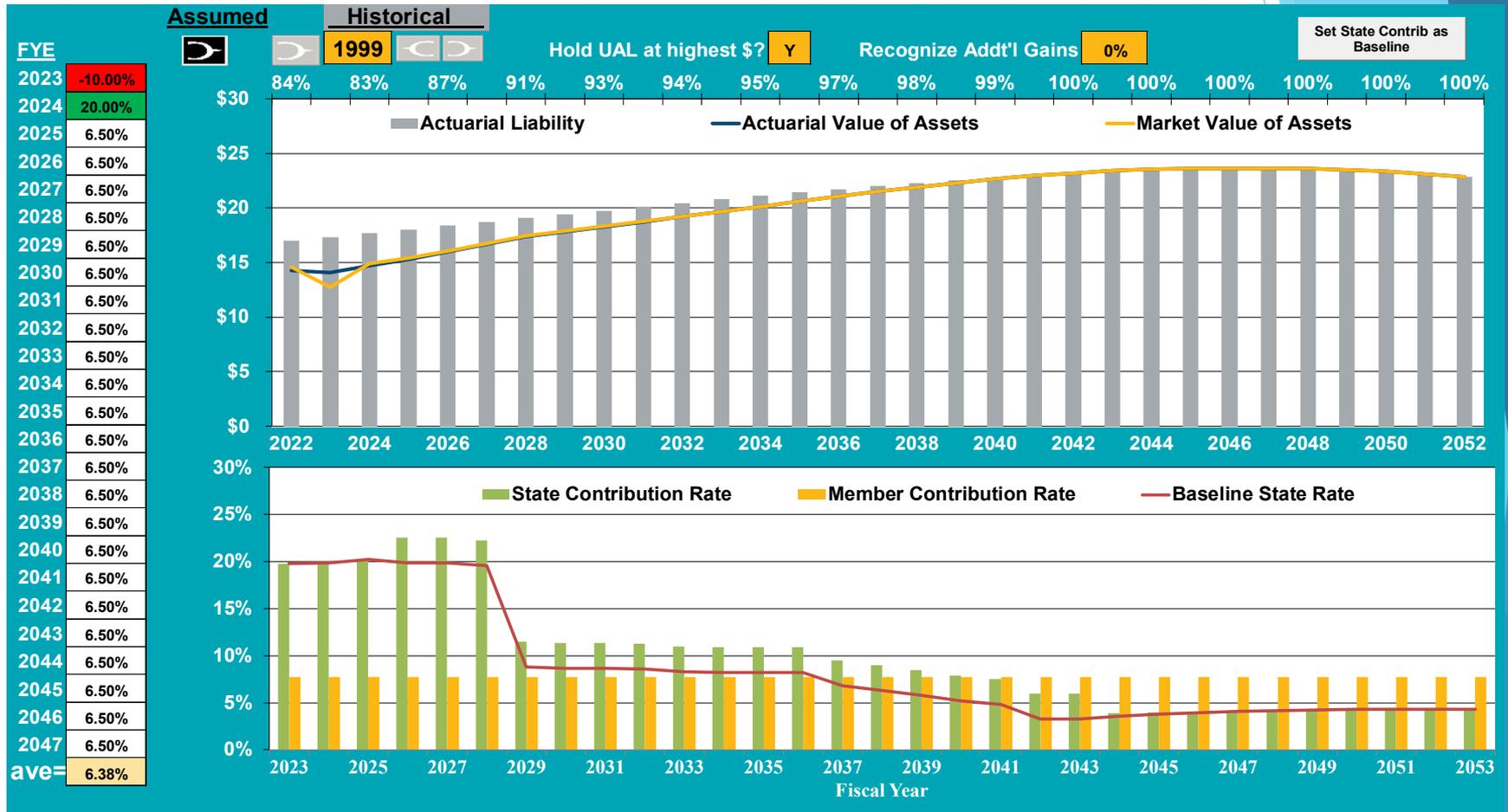
Other Projection Views



State/Teacher w/ loss



State/Teacher w/ loss then gain

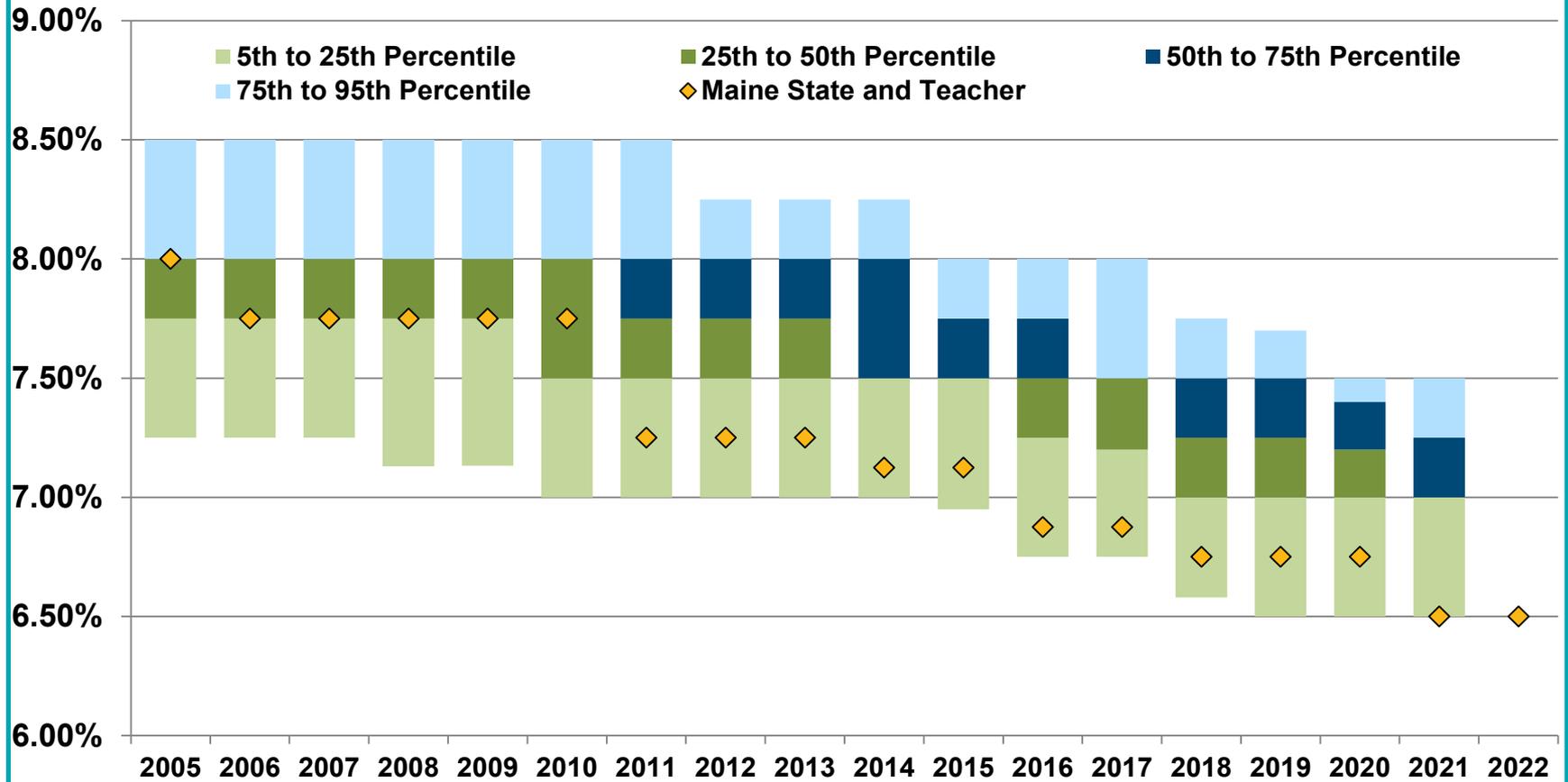


NASRA Peer Comparisons

National Association of State Retirement Administrators



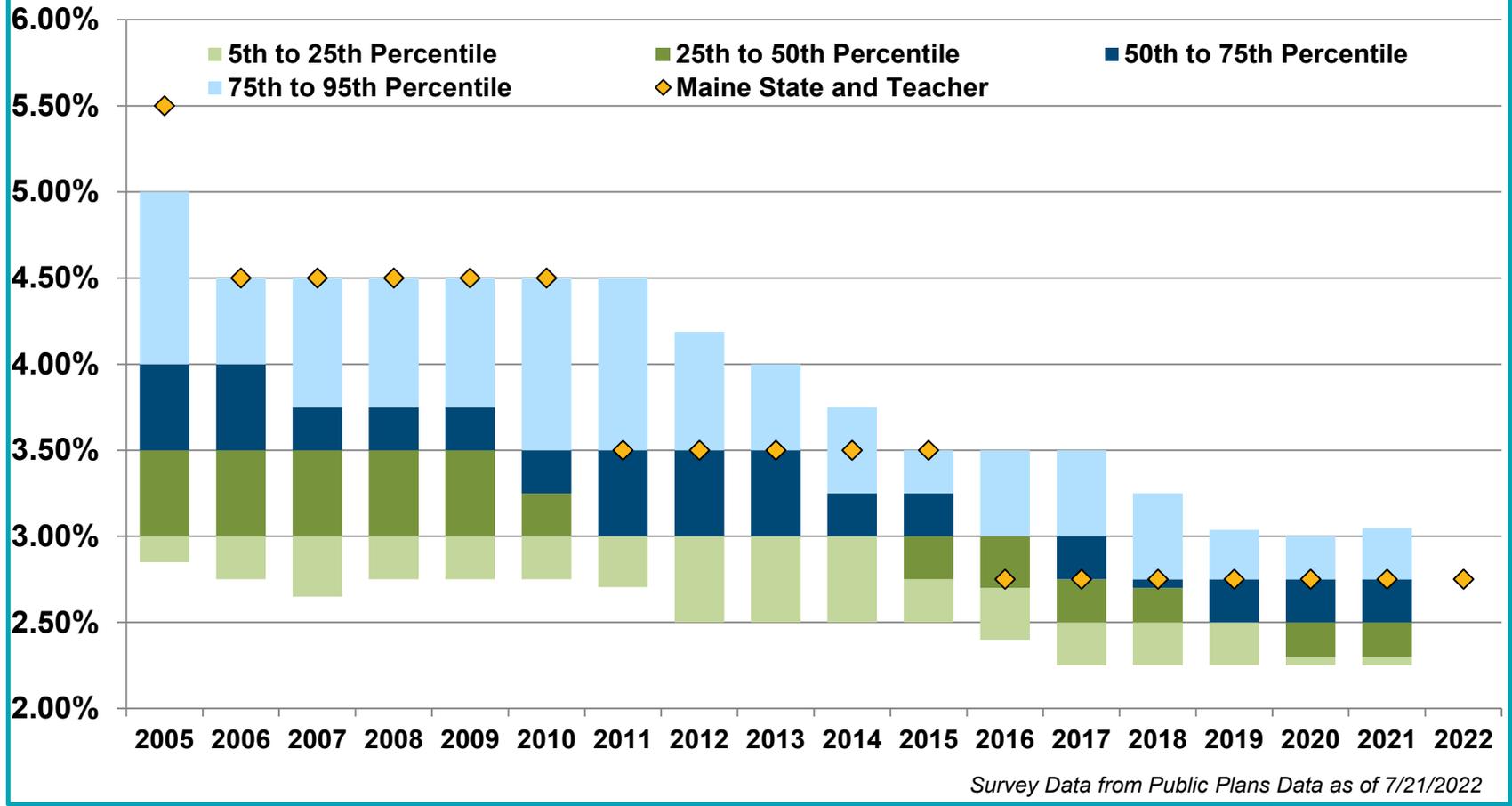
Discount Rate



Survey Data from Public Plans Data as of 7/21/2022

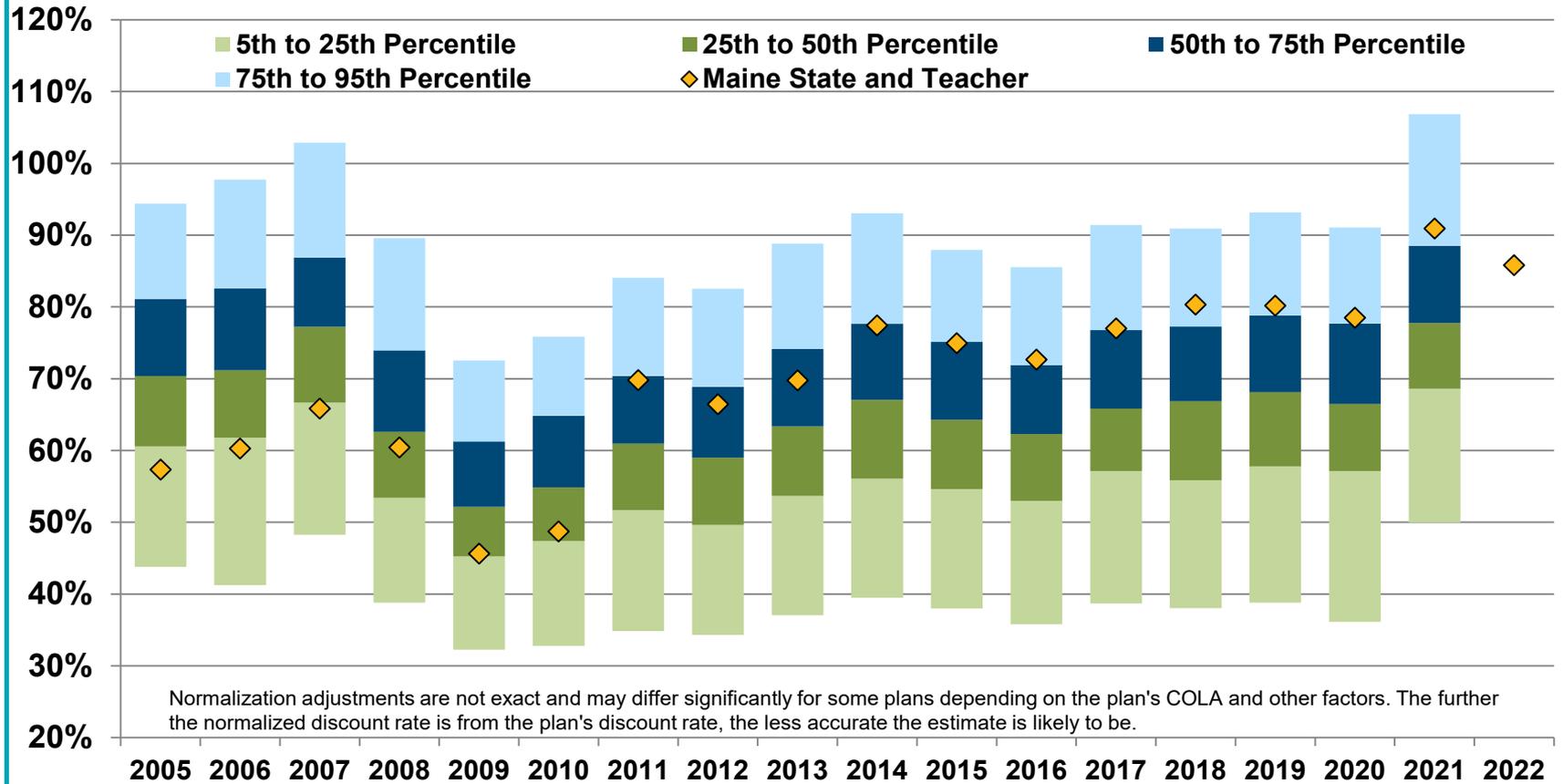
State Employee and Teacher Only

Inflation



State Employee and Teacher Only

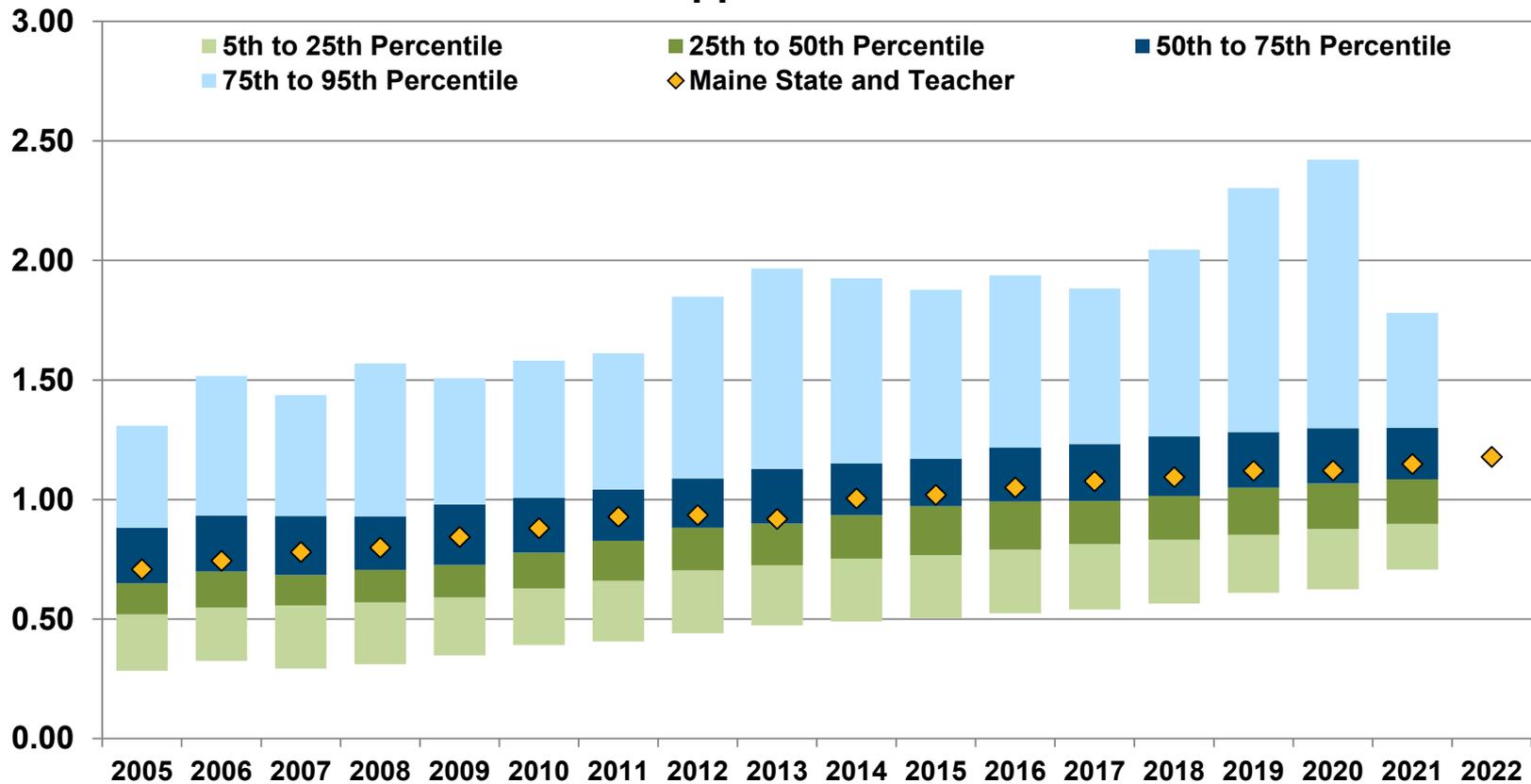
MVA Funded Ratio - Normalized



Survey Data from Public Plans Data as of 7/21/2022

State Employee and Teacher Only

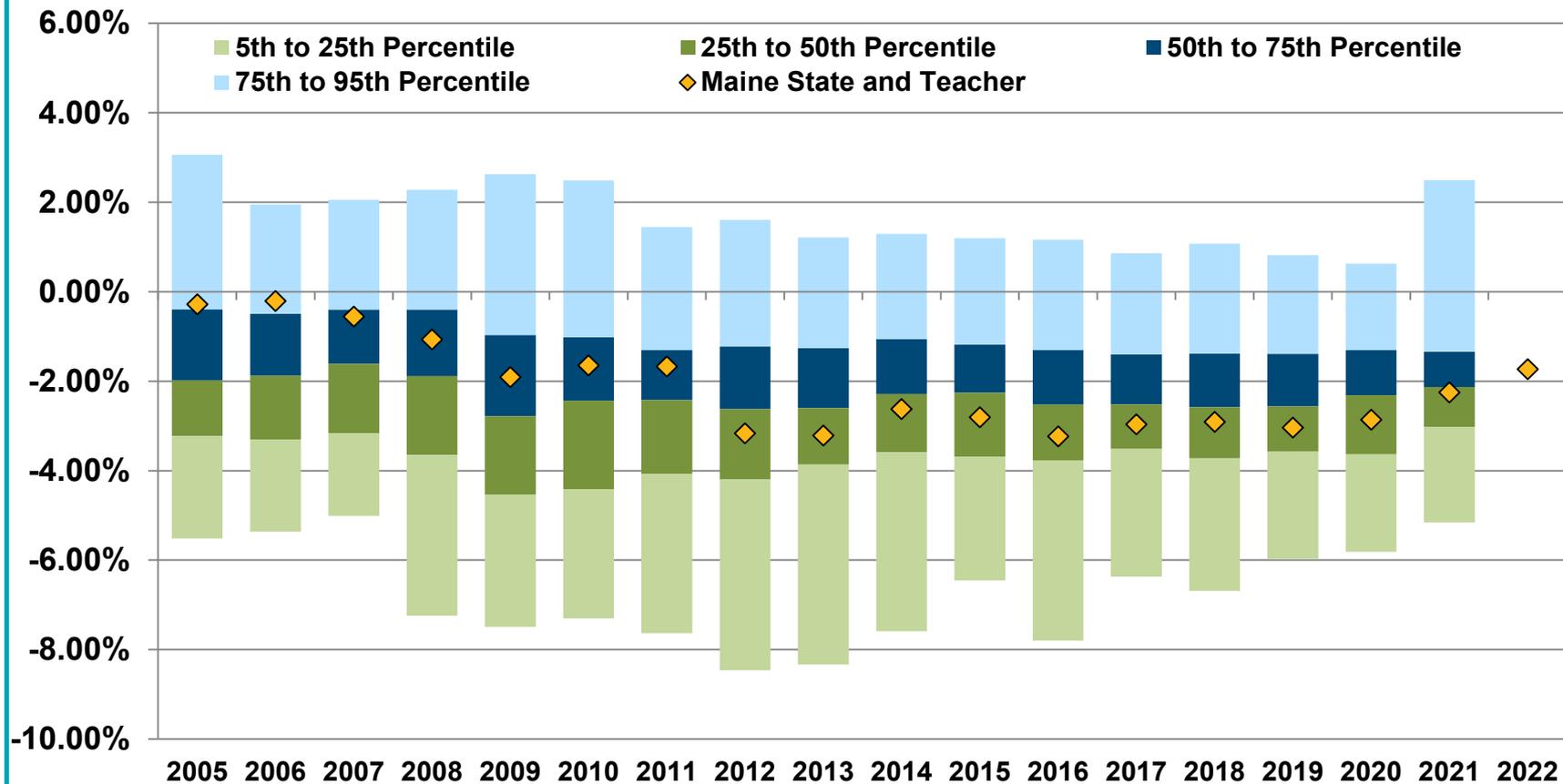
Support Ratio



Survey Data from Public Plans Data as of 7/21/2022

State Employee and Teacher Only

Net Cash Flow Rate



Survey Data from Public Plans Data as of 7/21/2022

Valuation Results

State/Teacher, Legislative, Judicial and Consolidated PLD Plans



Valuation Results: S/T Plan

<i>(all dollars are in millions)</i>		June 30,			
<i>*except for average salary & benefit</i>		<u>2021</u>	<u>2022</u>	<u>2022</u>	<u>2021 to 2022</u>
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>	
Actives	40,099		40,121		0.1%
Payroll	\$ 2,199	\$ 2,260	\$ 2,265		3.0%
Average Salary *	\$ 54,851		\$ 56,463		2.9%
In Pay Status	37,690		38,408		1.9%
Total Annual Benefits	\$ 884	\$ 951	\$ 931		5.4%
Average Benefit *	\$ 23,456		\$ 24,250		3.4%
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 16,392	\$ 16,936	\$ 16,982		3.6%
Actuarial Value of Assets	\$ 13,461	\$ 14,262	\$ 14,248		5.8%
Unfunded Actuarial Liability (UAL)	\$ 2,931	\$ 2,674	\$ 2,734		-6.7%
Actuarial Funded Ratio	82.1%	84.2%	83.9%		
Market Value of Assets (MVA)	\$ 14,901	\$ 14,414	\$ 14,569		-2.2%
MVA Funded Ratio	90.9%	85.1%	85.8%		
Accrued Liabilities	\$ 14,841	NC	\$ 15,383		3.7%
Unfunded Accrued (using MVA)	\$ (60)	NC	\$ 814		NC
Accrued Funded Ratio	100.4%	NC	94.7%		
<u>Total Contribution</u>					
Normal Cost Rate	4.64%	4.64%	4.58%		
UAL Rate	17.08%	15.93%	16.07%		
Total Calculated Rate	21.72%	20.57%	20.65%		

source: Cheiron 39

Valuation Results: Legislative

<i>(all dollars are in thousands)</i>		June 30,			
<i>*except for average salary & benefit</i>		<u>2021</u>	<u>2022</u>	<u>2022</u>	<u>2021 to 2022</u>
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>	
Actives	178		174		-2.2%
Payroll	\$ 2,802	\$ 2,879	\$ 2,801		0.0%
Average Salary *	\$ 15,742		\$ 16,099		2.3%
In Pay Status	222		223		0.5%
Total Annual Benefits	\$ 502	\$ 618	\$ 529		5.4%
Average Benefit*	\$ 2,261		\$ 2,372		4.9%
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 10,678	\$ 11,192	\$ 10,977		2.8%
Actuarial Value of Assets	\$ 15,049	\$ 15,739	\$ 15,788		4.9%
Unfunded Actuarial Liability (UAL)	\$ (4,371)	\$ (4,547)	\$ (4,811)		10.1%
Actuarial Funded Ratio	140.9%	140.6%	143.8%		
Market Value of Assets (MVA)	\$ 16,659	\$ 15,907	\$ 16,143		-3.1%
MVA Funded Ratio	156.0%	142.1%	147.1%		
Accrued Liabilities	\$ 10,309	NC	\$ 10,791		4.7%
Unfunded Accrued (using MVA)	\$ (6,350)	NC	\$ (5,352)		-15.7%
Accrued Funded Ratio	161.6%	NC	149.6%		
<u>Total Contribution</u>					
Normal Cost Rate	5.74%	5.74%	3.46%		
UAL Rate	-5.74%	-5.74%	-3.46%		
Total Calculated Rate	0.00%	0.00%	0.00%		

source: Cheiron 40

Valuation Results: Judicial

<i>(all dollars are in thousands)</i> <i>*except for average salary & benefit</i>		June 30,			
		<u>2021</u>	<u>2022</u>	<u>2022</u>	<u>2021 to 2022</u>
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>	
Actives	60		60	0.0%	
Payroll	\$ 8,745	\$ 8,986	\$ 8,694	-0.6%	
Average Salary *	\$ 145,752		\$ 144,897	-0.6%	
In Pay Status	85		90	5.9%	
Total Annual Benefits	\$ 4,730	\$ 5,099	\$ 5,350	13.1%	
Average Benefit *	\$ 55,647		\$ 59,449	6.8%	
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 75,788	\$ 77,615	\$ 77,426	2.2%	
Actuarial Value of Assets	\$ 81,208	\$ 83,665	\$ 83,933	3.4%	
Unfunded Actuarial Liability (UAL)	\$ (5,420)	\$ (6,050)	\$ (6,507)	20.1%	
Actuarial Funded Ratio	107.2%	107.8%	108.4%		
Market Value of Assets (MVA)	\$ 89,894	\$ 84,557	\$ 85,821	-4.5%	
MVA Funded Ratio	118.6%	108.9%	110.8%		
Accrued Liabilities	\$ 71,860	NC	\$ 73,878	2.8%	
Unfunded Accrued (using MVA)	\$ (18,033)	NC	\$ (11,943)	-33.8%	
Accrued Funded Ratio	125.1%	NC	116.2%		
<u>Total Contribution</u>					
Normal Cost Rate	12.17%	12.21%	12.71%		
UAL Rate	-7.48%	-8.12%	-9.03%		
Total Calculated Rate	4.69%	4.09%	3.68%		

source: Cheiron 41

Valuation Results: Consol. PLD

<i>(all dollars are in millions)</i> <i>*except for average salary & benefit</i>		June 30,	June 30,	
		2021	2022	2021 to 2022
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>		<u>% change</u>
Actives	11,704	12,362		5.6%
Payroll	\$ 664	\$ 738		11.2%
Average Salary *	\$ 56,713	\$ 59,704		5.3%
In Pay Status	10,093	10,400		3.0%
Total Annual Benefits	\$ 178	\$ 190		6.6%
Average Benefit *	\$ 17,615	\$ 18,224		3.5%
<u>Assets and Liabilities</u>				
Actuarial Liability	\$ 3,719	\$ 3,944		6.0%
Actuarial Value of Assets	\$ 3,389	\$ 3,597		6.1%
Unfunded Actuarial Liability (UAL)	\$ 330	\$ 347		5.0%
Actuarial Funded Ratio	91.1%	91.2%		
Market Value of Assets (MVA)	\$ 3,751	\$ 3,678		-2.0%
MVA Funded Ratio	100.9%	93.3%		
Accrued Liabilities	\$ 3,347	\$ 3,674		9.8%
Unfunded Accrued (using MVA)	\$ (404)	\$ (3)		-99.2%
Accrued Funded Ratio	112.1%	100.1%		
<u>Composite Contribution</u>		<u>for FY 2023</u>	<u>for FY 2024</u>	
Total Normal Cost Rate		14.1%	14.2%	
UAL Rate		4.6%	4.5%	
Total Calculated Rate		18.7%	18.7%	
Final Aggregate Employer Paid		10.8%	10.9%	
Final Aggregate Member Paid		7.8%	7.8%	

source: Cheiron 42



MainePERS
PUBLIC EMPLOYEES RETIREMENT SYSTEM

**Briefing to the Joint Standing Committee on
Labor and Housing
January 31, 2023**

Dr. Rebecca Wyke, CEO

Michael Colleran, COO/General Counsel

Kathy Morin, Director of Actuarial and Legislative Affairs

Presentation Outline

- ▶ About MainePERS, p 3
- ▶ Defined Benefit Plans, p 24
- ▶ Maine's State/Teacher Plan, p 28
- ▶ Appendix, p 38
 - ▶ Other Historical Views, p 39
 - ▶ Other Projection Views, p 43
 - ▶ NASRA Peer Comparisons, p 46
 - ▶ Valuation Reports, p 52
 - ▶ State/Teacher Plan
 - ▶ Legislative Plan
 - ▶ Judicial Plan
 - ▶ Participating Local Districts Plan

About MainePERS



Statutory Purpose

- ▶ “The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to retirees...” through the retirement programs administered by **MainePERS** 5 M.R.S. §17151

Benefits Administered

▶ **Defined Benefit Plans**

- ▶ Service Retirement and Disability Retirement
- ▶ Provide a lifelong income stream in retirement based on years worked, final average salary and age at retirement
 - ▶ State sponsored plans: State/Teacher, Legislative and Judicial
 - ▶ Participating Local District plans

▶ **Defined Contribution Plans - MaineSTART**

- ▶ Provide a variable retirement benefit based on employee contributions

▶ **Group Life Insurance**

- ▶ Provide basic, supplemental, and dependent coverage



Participating Employers & Members

- ▶ MainePERS has approximately 600 employers
 - ▶ State, county and municipal governments
 - ▶ School districts
 - ▶ Others
- ▶ MainePERS has over 160,000 members
 - ▶ 52,717 active members
 - ▶ 60,672 inactive members
 - ▶ 49,166 retired members and beneficiaries

Board of Trustees

- ▶ State law specifies the composition of the 8-member Board:
 - ▶ Two are System members
 - ▶ One proposed/elected by the Maine Education Assoc
 - ▶ One proposed/elected by the Maine Service Employees Assoc
 - ▶ One is a member/retiree of a participating local district (PLD) appointed by the Maine Municipal Association
 - ▶ Four are appointed by the Governor
 - ▶ One a retiree selected from a list of nominees by the Maine Retired Teachers Association
 - ▶ One a retiree selected from a list of nominees by State and/or PLD retirees, or the Maine Association of Retirees
 - ▶ Two are appointed by the Governor knowledgeable in investments, accounting, banking, insurance or as actuaries
 - ▶ Treasurer of State is ex-officio

Labor & Housing Committee

130th Legislature - Requests

- ▶ In February 2022, pursuant to the Government Evaluation Act, the Committee reported out on its review and evaluation of MainePERS
- ▶ The Committee found that MainePERS was operating within its statutory authority
- ▶ The Committee also requested additional information for its 2023 orientation on MainePERS, specifically:
 - ▶ Progress on the Strategic Plan, including employee feedback on the culture change initiatives
 - ▶ Member satisfaction in general, and
 - ▶ The experience of the System and members under the new provisions of the law for the disability retirement program

Strategic Plan *-adopted by Board of Trustees August 11, 2022*

Goals

- I. Preservation of the Trust Fund
- II. Stability of the contribution rates
- III. Security and integrity of our information systems
- IV. Cultivation of a member-centric organization
- V. Development of stakeholder relations
- VI. Foster an engaged workforce that advances the organization's mission

<https://www.mainebers.org/about/strategic-plan>

Strategic Plan cont.

Mission

MainePERS partners with public employers to deliver retirement and related services.

Vision

MainePERS is a trusted and effective fiduciary focused on meeting the needs of active and retired members, beneficiaries and employers.

Employee Engagement in the Strategic Planning Process

- ▶ Engaged in an iterative process with staff to develop the mission, vision and organizational values for the Strategic Plan
- ▶ Staff participated in 2 rounds of small group meetings, several staff surveys, 1 public survey, and multiple All Staff meetings
- ▶ Development of the organizational values engaged all staff and was led by staff members selected by their peers

Organizational Values

Accountability - Respect - Collaboration

Stewardship - Agility

Employee Engagement cont.

- ▶ The small group meetings and surveys were constructive in refining the mission and vision statements and developing the organizational values
- ▶ Additionally, staff provided other important feedback:
 - ▶ Recognition that a change in culture is needed
 - ▶ Staff are stretched thin, and morale is fragile
 - ▶ Staff need more training and development
 - ▶ Staff need to be engaged and valued
 - ▶ Staff need a sense of community and team
 - ▶ Recognition that culture change takes time, engagement of staff, and attention by leadership

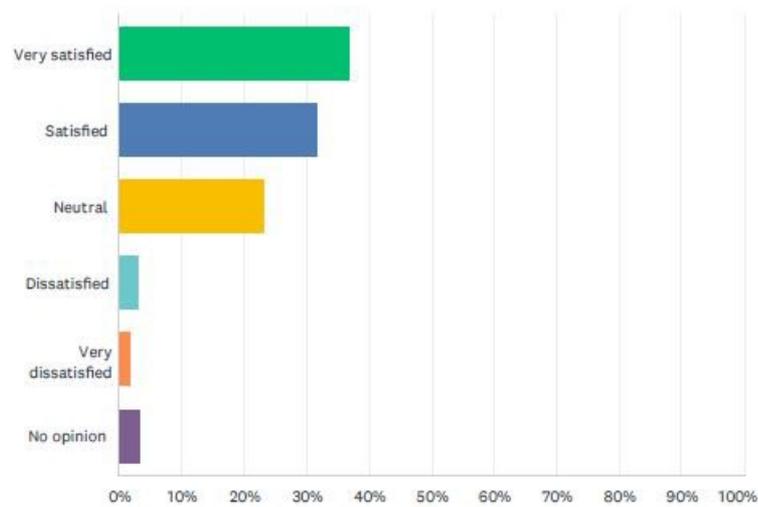
Employee Engagement cont.

- ▶ Actions taken to date:
 - ▶ Asked staff to lead the development of the organizational values and present to the Board of Trustees
 - ▶ Chartered a staff-led Organizational Values Steering Committee to lead the cultural change efforts
 - ▶ Chartered a staff-led Events Committee to lift morale and build community
 - ▶ Added 2 training specialists to support onboarding and professional development
 - ▶ Provided DEI training to engender understanding and respect
- ▶ Follow-up staff survey is currently underway
- ▶ Progress has been made, but there is more work to be done

Member Survey - Actives

Q1 Please rate your overall satisfaction with MainePERS

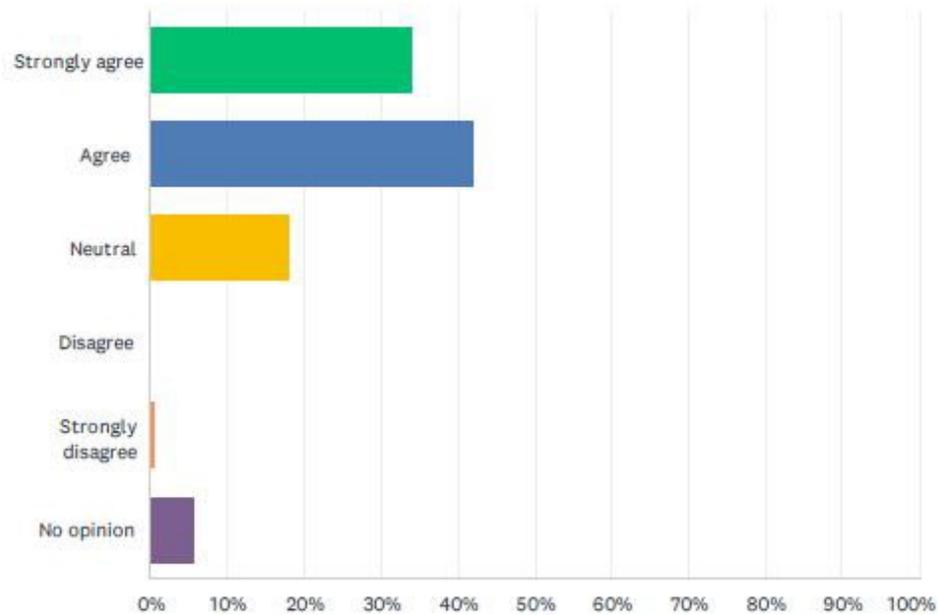
Answered: 233 Skipped: 3



ANSWER CHOICES	RESPONSES	
Very satisfied	36.91%	86
Satisfied	31.76%	74
Neutral	23.18%	54
Dissatisfied	3.00%	7
Very dissatisfied	1.72%	4
No opinion	3.43%	8
TOTAL		233

Q4 MainePERS acts with integrity

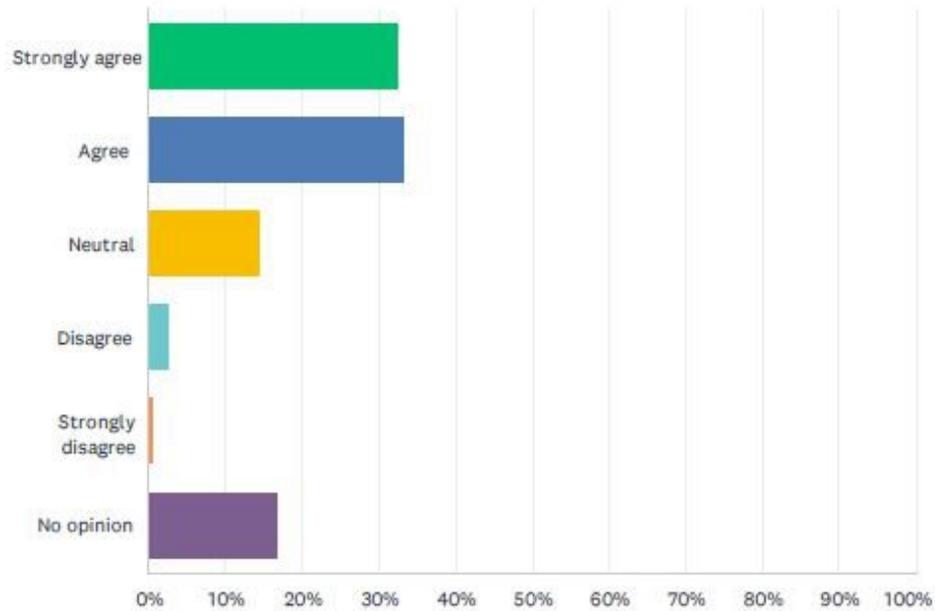
Answered: 236 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	33.90%	80
Agree	41.95%	99
Neutral	18.22%	43
Disagree	0.00%	0
Strongly disagree	0.42%	1
No opinion	5.51%	13
TOTAL		236

Q8 MainePERS Staff are knowledgeable

Answered: 234 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	32.48%	76
Agree	33.33%	78
Neutral	14.53%	34
Disagree	2.56%	6
Strongly disagree	0.43%	1
No opinion	16.67%	39
TOTAL		234

Active Member Responses

Indicate a desire for:

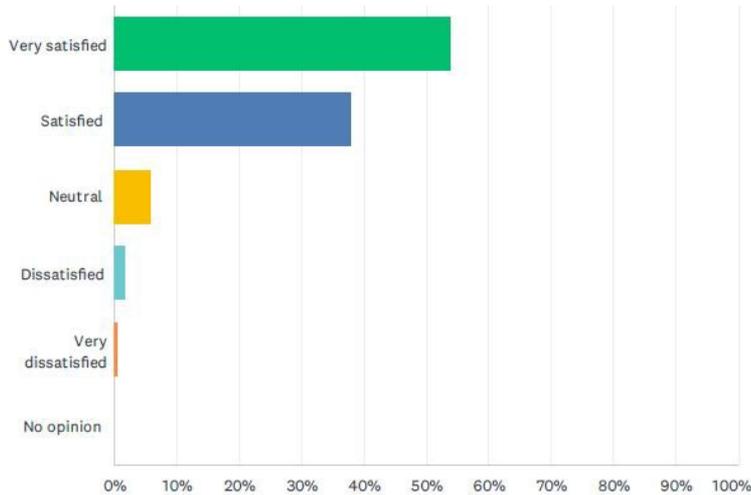
- ▶ More frequent communication
- ▶ Information that is easier to understand
- ▶ More timely responses to questions raised
- ▶ Pre-retirement informational meetings
- ▶ Retirement security planning seminars

Additionally, 73.73% of respondents indicated they would use a secure online member portal

Member Survey - Retirees

Q1 Please rate your overall satisfaction with MainePERS

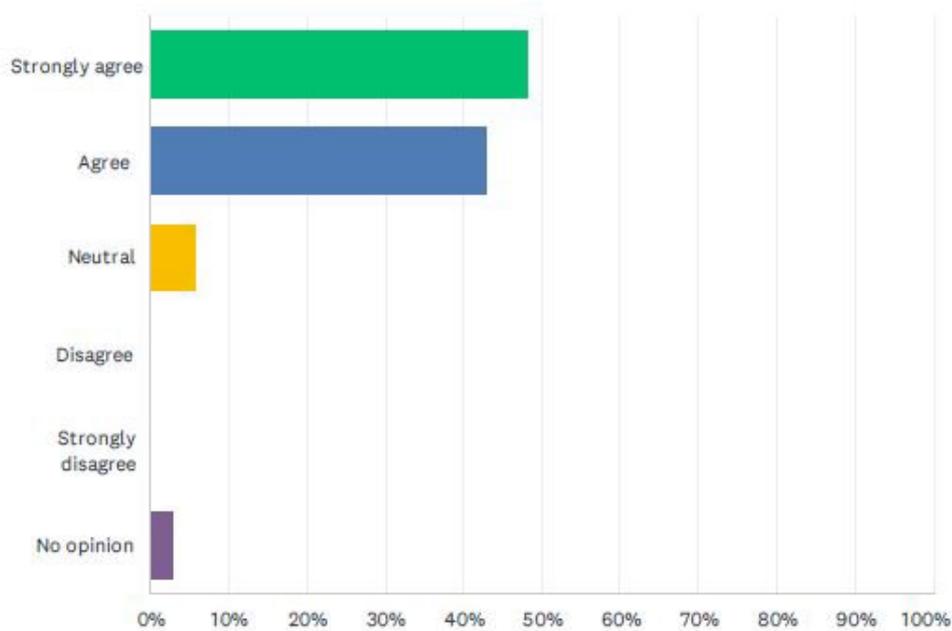
Answered: 414 Skipped: 2



ANSWER CHOICES	RESPONSES	
Very satisfied	53.86%	223
Satisfied	37.92%	157
Neutral	5.80%	24
Dissatisfied	1.69%	7
Very dissatisfied	0.48%	2
No opinion	0.24%	1
TOTAL		414

Q4 MainePERS acts with integrity

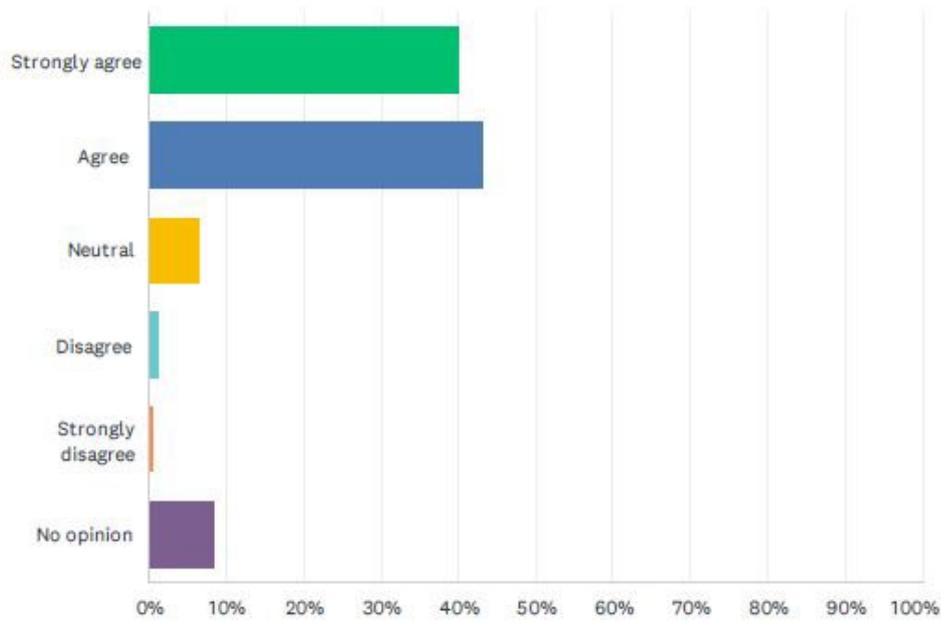
Answered: 415 Skipped: 1



ANSWER CHOICES	RESPONSES	
Strongly agree	48.19%	200
Agree	42.89%	178
Neutral	5.78%	24
Disagree	0.00%	0
Strongly disagree	0.24%	1
No opinion	2.89%	12
TOTAL		415

Q8 MainePERS Staff are knowledgeable

Answered: 414 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	40.10%	166
Agree	43.24%	179
Neutral	6.52%	27
Disagree	1.21%	5
Strongly disagree	0.48%	2
No opinion	8.45%	35
TOTAL		414

Retired Member Responses

Indicate General Satisfaction Regarding:

- ▶ Frequency of communication
- ▶ Clarity of information
- ▶ Timeliness of responses
- ▶ Retired members also:
 - ▶ want information on cybersecurity and identity theft
 - ▶ are concerned about the COLA base and cap, the Social Security WEP and GPO, and retiree health insurance*

Additionally, 67.47 % of respondents indicated they would use a secure online member portal

**Retiree Health Insurance is administered by the Office of Employee Health and Wellness, DAFS*

Disability Retirement Program Experience Report

- ▶ Public Law 2021, c. 277, effective October 2021
- ▶ Required a report on the experience of the system and its members
- ▶ MainePERS conducted an extensive first year review:
 - ▶ Program Audit
 - ▶ Evaluation of Medical Review Service Provider (UMass)
 - ▶ Member Experience Survey
 - ▶ Consensus-based Rulemaking
- ▶ Report will be presented to the Committee on Feb 2nd

Experience Report cont.

- ▶ Key takeaways:
 - ▶ Program audit demonstrates program is functioning consistent with Public Law 2021, c. 277
 - ▶ New provisions ensure member every opportunity to provide information and enable an accurate assessment of their eligibility
 - ▶ As a result, application process takes longer, but is more likely to result in a determination of approval
 - ▶ Member experience to date is positive
 - ▶ 100% agree they were treated respectfully
 - ▶ 92% agree process was easy to understand/follow
 - ▶ 92% agree the process was fair

Defined Benefit Plans



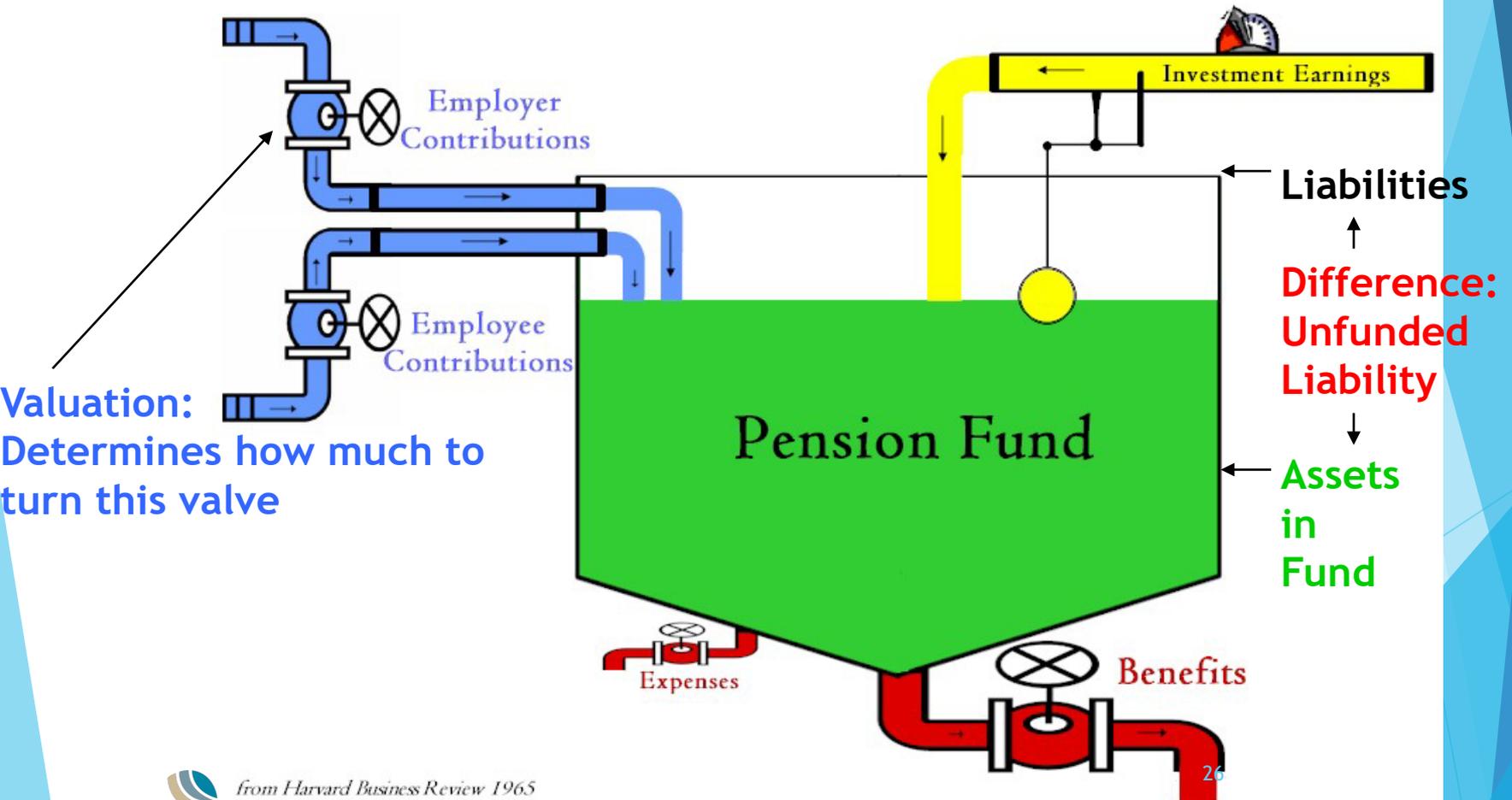
Defined Benefit Plans

- ▶ Provide members with a fixed benefit throughout retirement
- ▶ Fixed benefit is generally calculated using:
 - ▶ The average of highest 3 years of salary (AFC)
 - ▶ The number of years worked under the plan (service credit)
 - ▶ A multiplier of 2%
- ▶ Special Plans typically permit retirement with fewer years of service, at an earlier age, and/or with a different multiplier
- ▶ The monthly retirement benefit at normal retirement age is:
$$\text{AFC} \times \text{service credit} \times \text{multiplier} \div 12 = \text{monthly benefit}$$

Example: \$60,000 X 20 yrs X .02 = \$24,000/12 = \$2,000
- ▶ State of Maine plans offer a variable cost-of-living adjustment subject to a COLA base and a COLA cap



Actuarial Valuation & UAL



 from Harvard Business Review 1965

Defined Benefit Plan Costs

Normal Costs (NC)

- ▶ Cost that covers retirement benefits earned in the current year
- ▶ If nothing changes, normal costs will cover the full cost of each member's retirement benefit throughout their life

Unfunded Actuarial Liability (UAL)

- ▶ UAL costs are calculated to restore full funding if trust fund losses have occurred

Events That Can Impact Costs

- ▶ Investment Losses
- ▶ Inflation/Deflation
- ▶ Unfunded Benefit Increases*
- ▶ Longevity Increases
- ▶ Employment Trends
- ▶ NC/UAL Payments not made*

Maine's State/Teacher Defined Benefit Plan



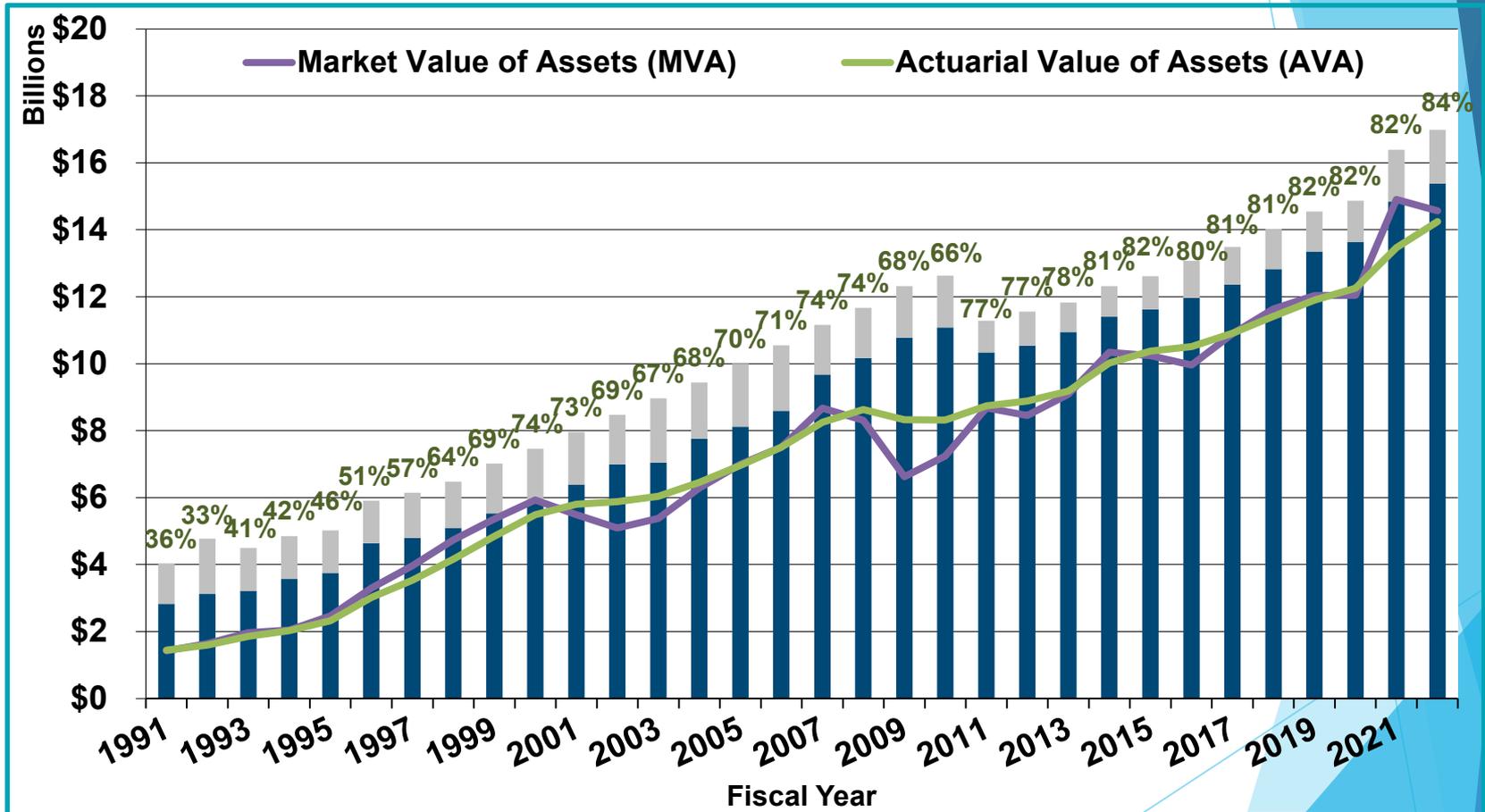
Maine's Constitution Guards the State/Teacher Plan

- ▶ Article IX, Section 18 limits the use of MainePERS trust funds to the “**exclusive benefit**” of members as pension plan recipients
- ▶ The Constitution further safeguards the plan by requiring:
 - ▶ The unfunded actuarial liability (UAL) on new benefits be funded at the time the liability is created
 - ▶ Experience losses be retired within 20 years
 - ▶ Normal costs be funded annually on an actuarially sound basis, and
 - ▶ The 1996 UAL be retired by 2028

Federal and State Laws & Regulations

- ▶ The “exclusive benefit rule” is also reflected in:
 - ▶ Maine Uniform Trust Code *18-B M.R.S. §802(1) & 5 M.R.S. §17153(3)*
 - ▶ Federal statutes and regulations that qualify MainePERS defined benefit plans for federal tax deferment *26 U.S.C. §401(a)(2) & 26 C.F.R. §1.401-2(a)(3)*
- ▶ The Maine Uniform Prudent Investor Act *18-B M.R.S. §902(1)*
 - ▶ Requires MainePERS to invest and manage trust assets as a prudent investor would
- ▶ Title 5, Part 20, State Retirement System

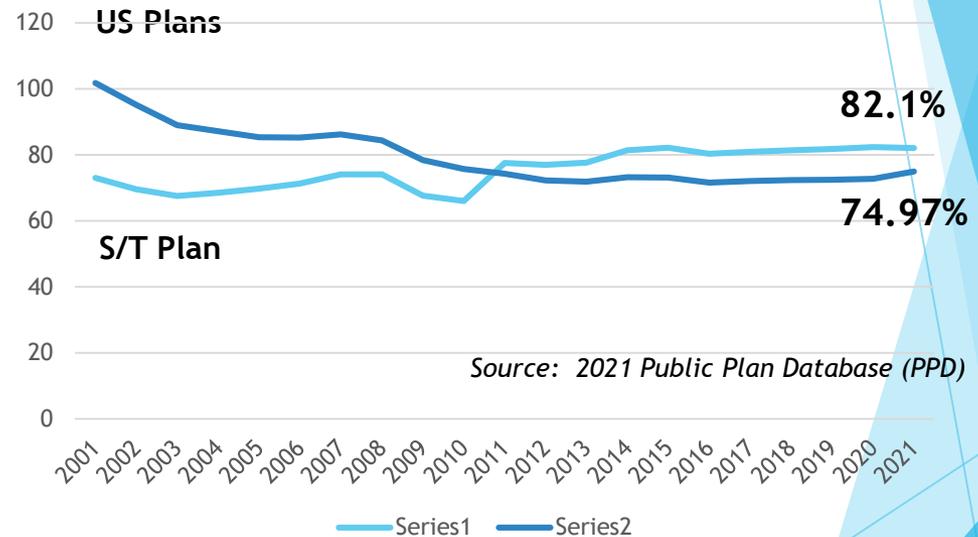
State/Teacher Funding History



How Does the S/T Plan Compare?

- ▶ The S/T Plan is well funded compared to the average of public pension plans, and is in the top 25th percentile of all public plans
- ▶ In FY22, Maine's S/T Plan is 83.9% funded

S/T and US Plan Funding Levels

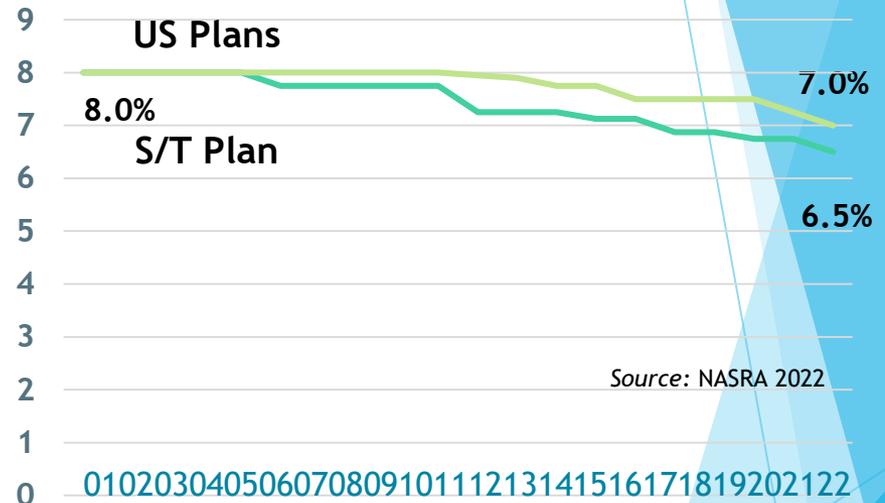


S/T Plan Earnings Assumption

Lowering Risk

- ▶ MainePERS has lowered risk by lowering the earnings assumption
 - ▶ Annual costs increase, because less is anticipated to be earned
 - ▶ However the earnings assumption is more likely to be met, therefore strengthening the plan
- ▶ Most states are working towards the MainePERS' rate, U.S. median currently at 7.0%

Plan Earnings Assumptions

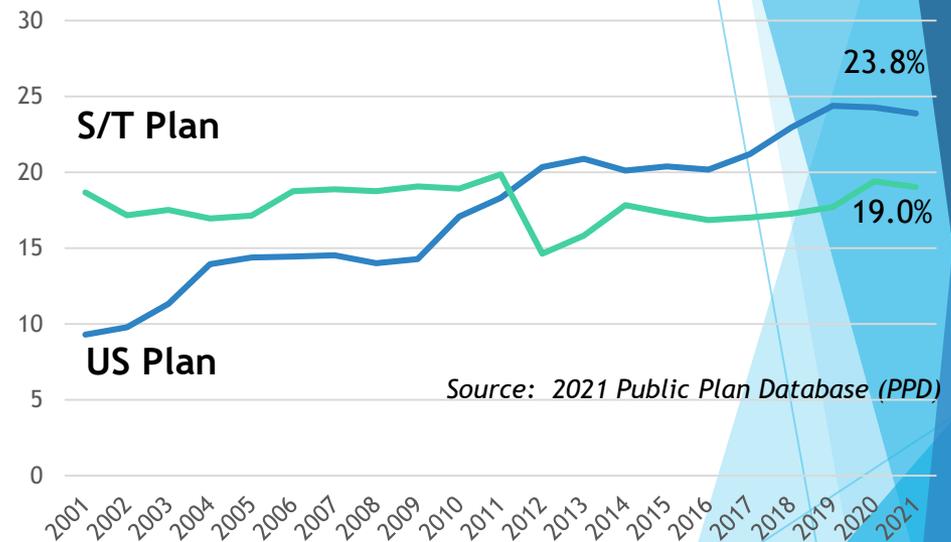


S/T Plan Contribution Rates

Stabilizing Rates

- ▶ S/T plan rates have stayed consistent over time because:
 - ▶ The UAL for new benefits must be funded at the time created
 - ▶ The State of Maine has consistently paid the full normal and UAL costs (ARC, Annual Required Contribution)
 - ▶ MainePERS has been de-risking the plan

S/T Plan ARC v US Plans Average as a % of Payroll



S/T Plan FY2022 Valuation

Investment Return

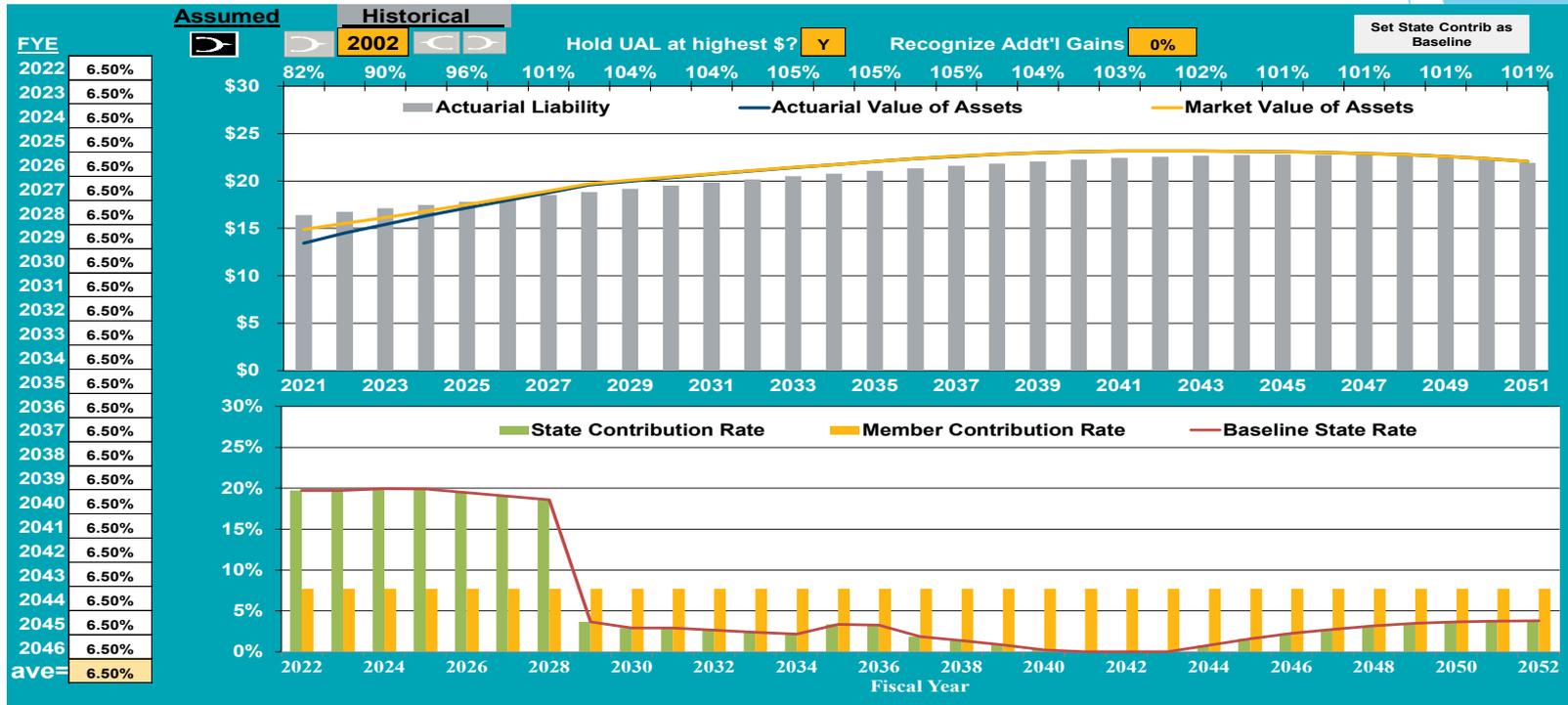
- ▶ Market Value of Assets basis, -0.62%
- ▶ Actuarial Value of Assets basis, 7.7%

Actuarial Funded Ratio, 83.9%

Actuarial Calculated Contribution Rate, 20.65%

S/T Plan Funding Projection

- ▶ In 2028, the 1996 UAL will be fully retired



All State Sponsored Plan Costs for FY24 & FY25

- By law, the annual state contribution towards the 1996 UAL may not be lower than the previous year

	6/30/20 (FYs 2022-2023)	6/30/22* (FYs 2024-2025)	Increase
Normal	\$176,278,025	\$230,543,751	\$ 54,265,726
UAL	<u>\$685,107,220</u>	<u>\$747,542,411</u>	<u>\$ 62,435,191</u>
Total	<u>\$861,385,245</u>	<u>\$978,086,162</u>	<u>\$116,700,917</u>

*Total costs include approximately \$171M that will be paid by local school units.

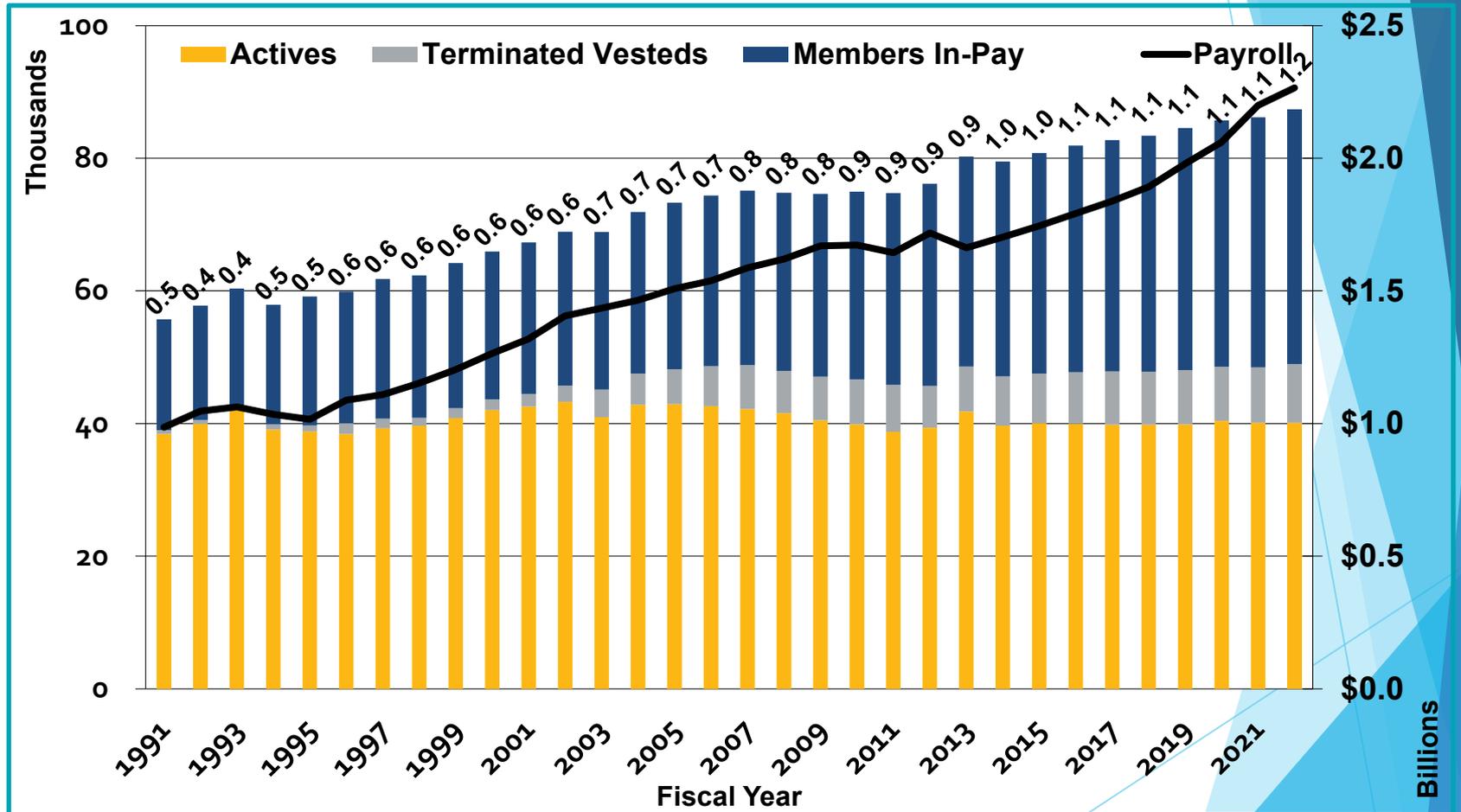
Appendix



Other Historical Views

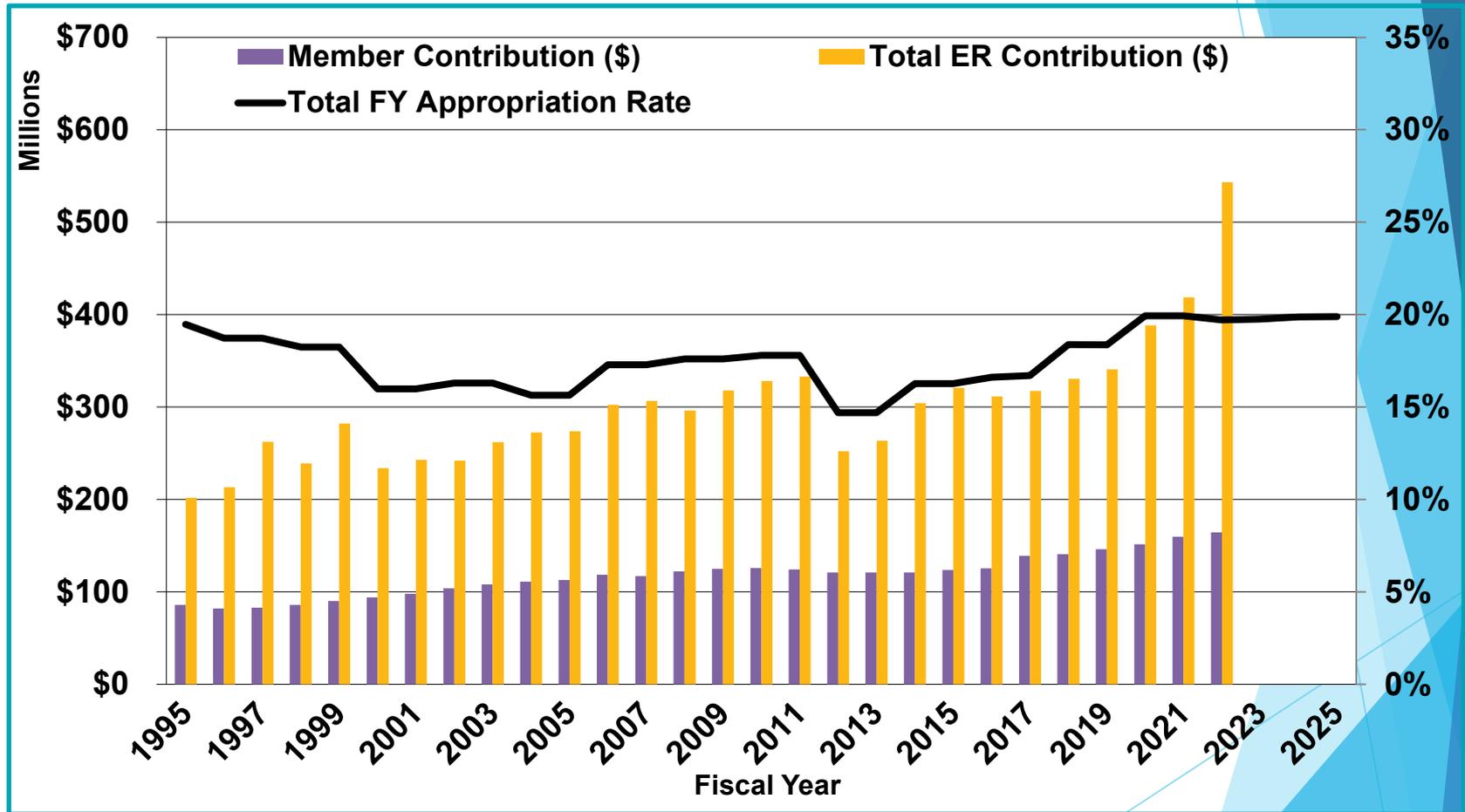


State/Teacher Membership



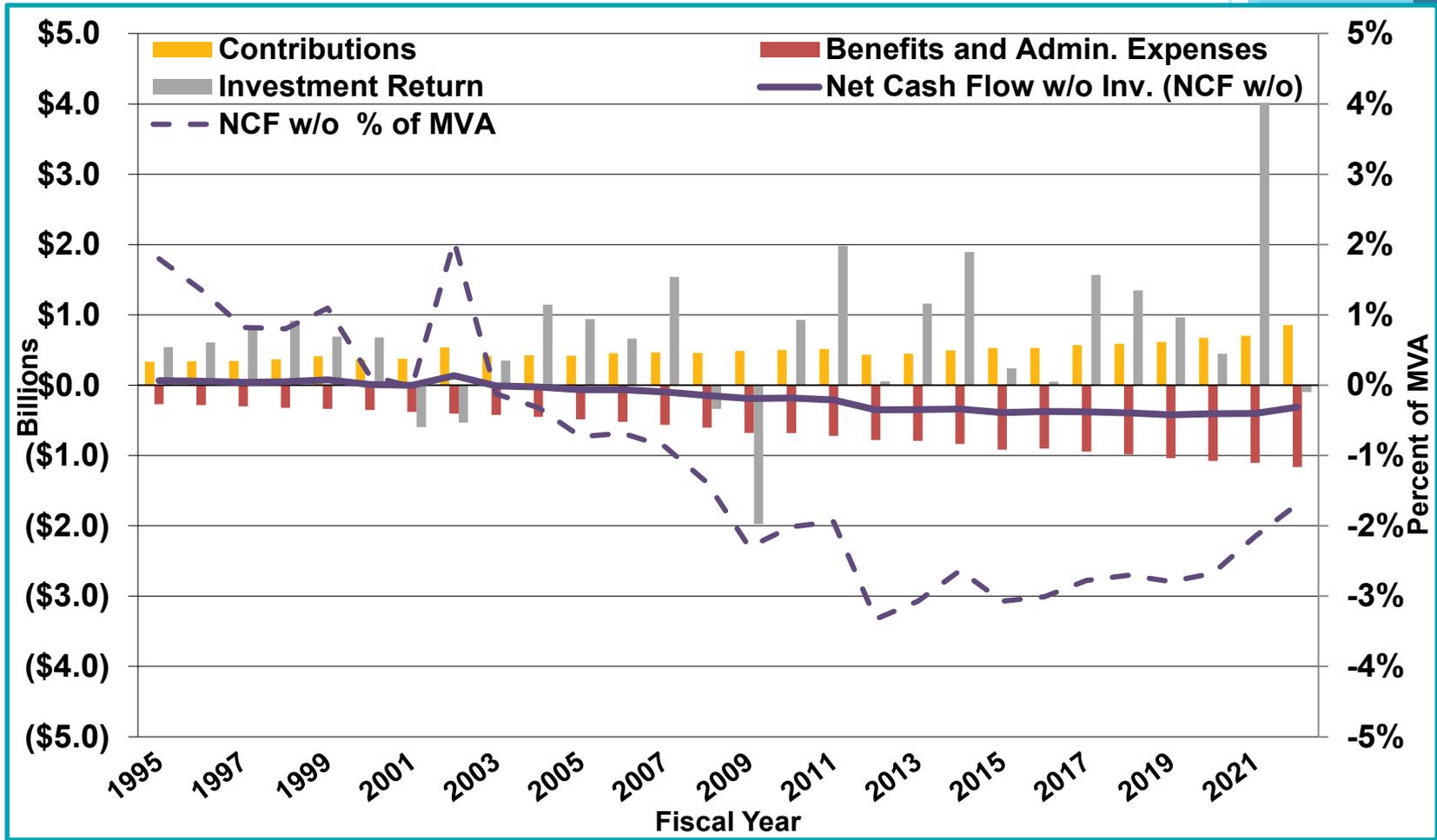
source: Cheiron 40

State/Teacher Contributions



source: Cheiron 41

State/Teacher Cash Flows

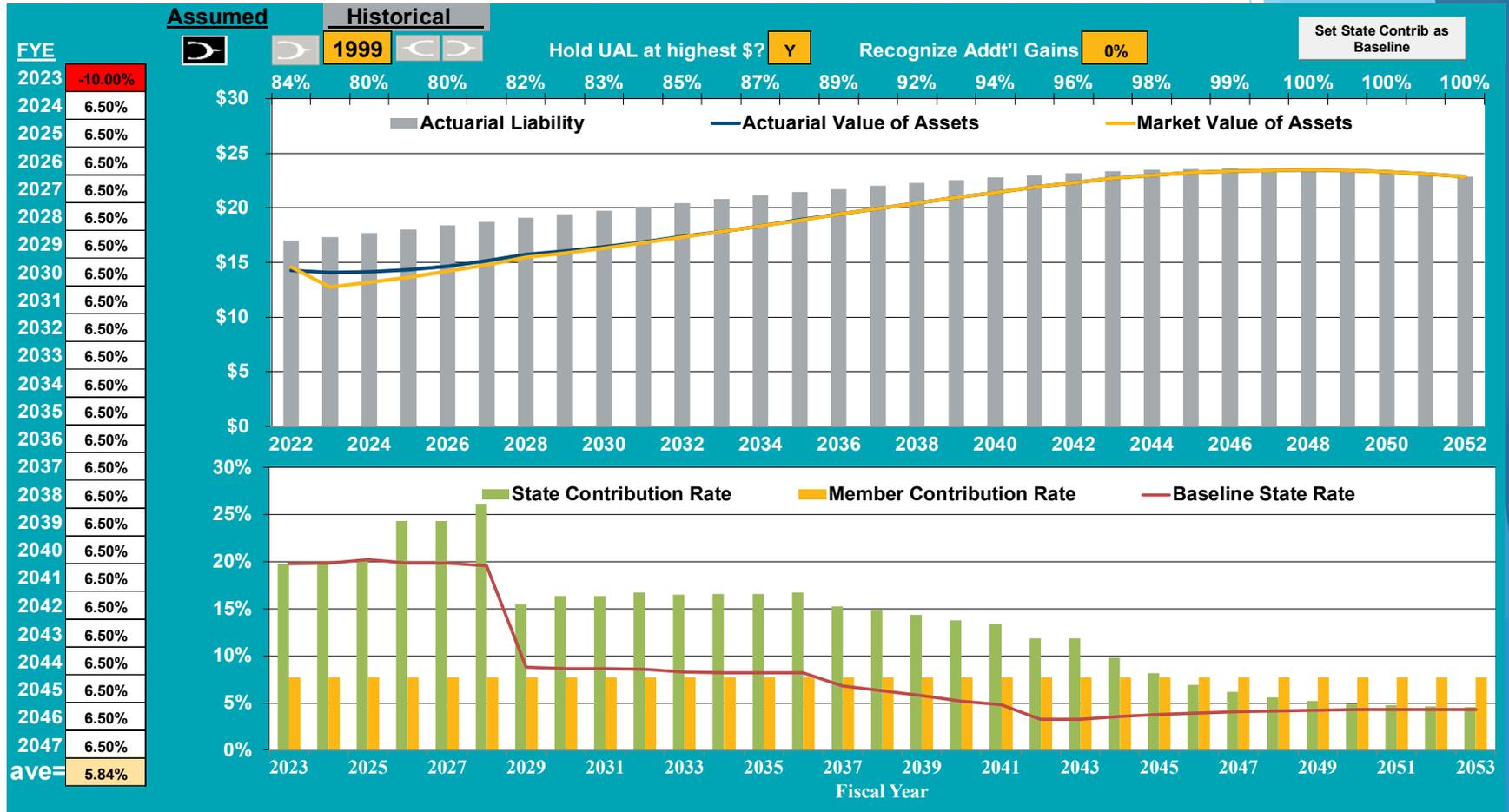


source: Cheiron 42

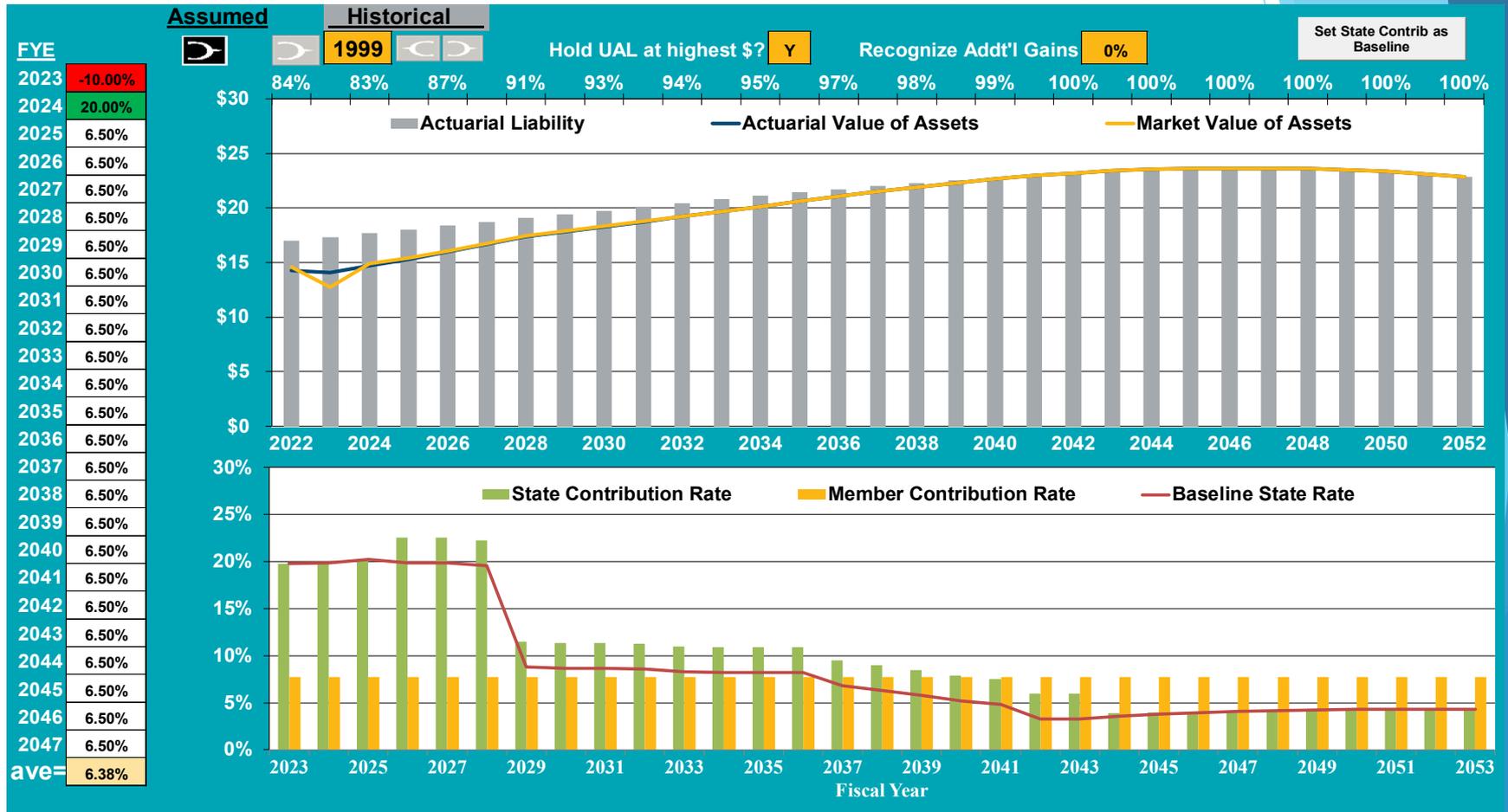
Other Projection Views



State/Teacher w/ loss



State/Teacher w/ loss then gain

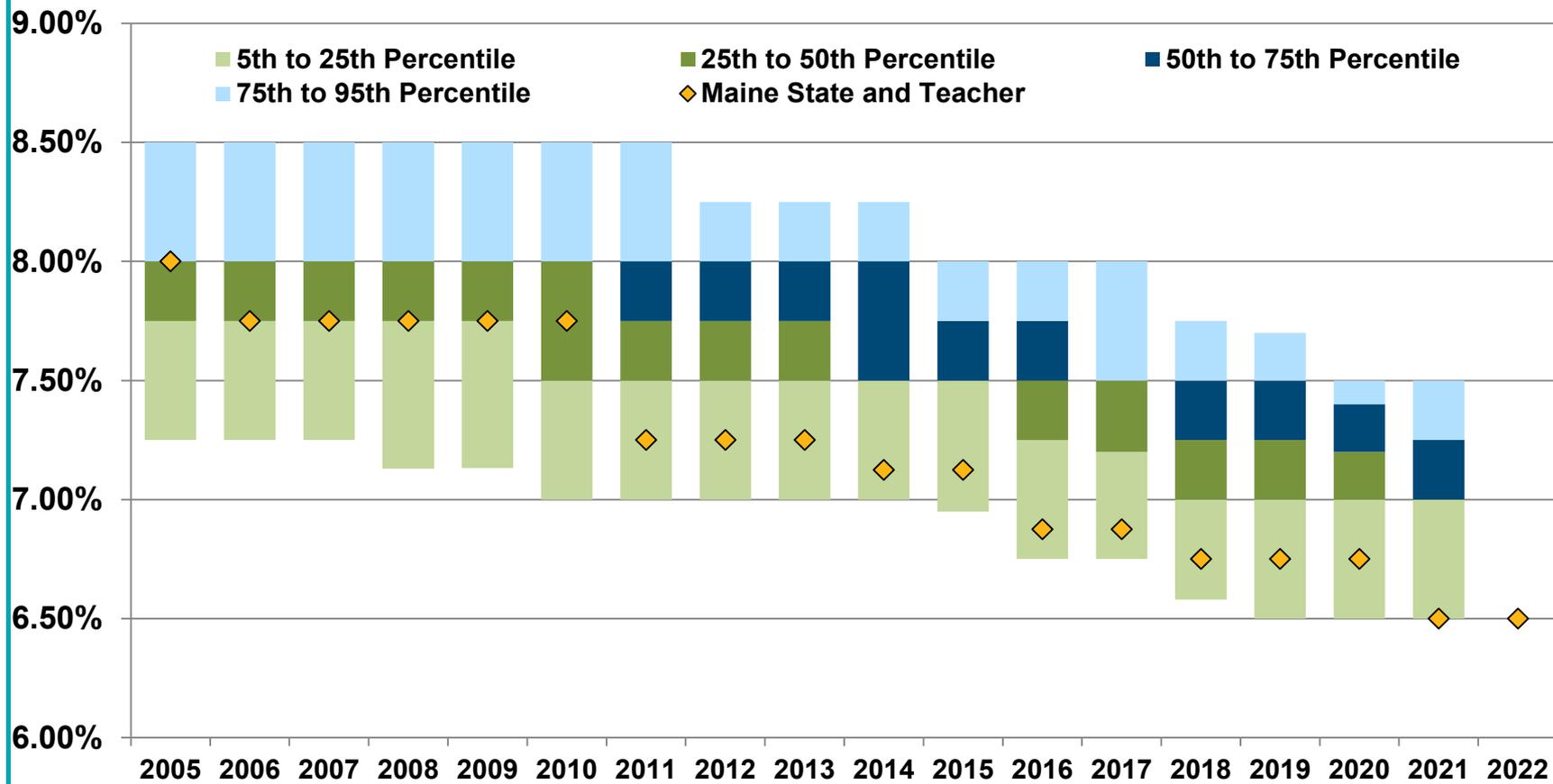


NASRA Peer Comparisons

National Association of State Retirement Administrators



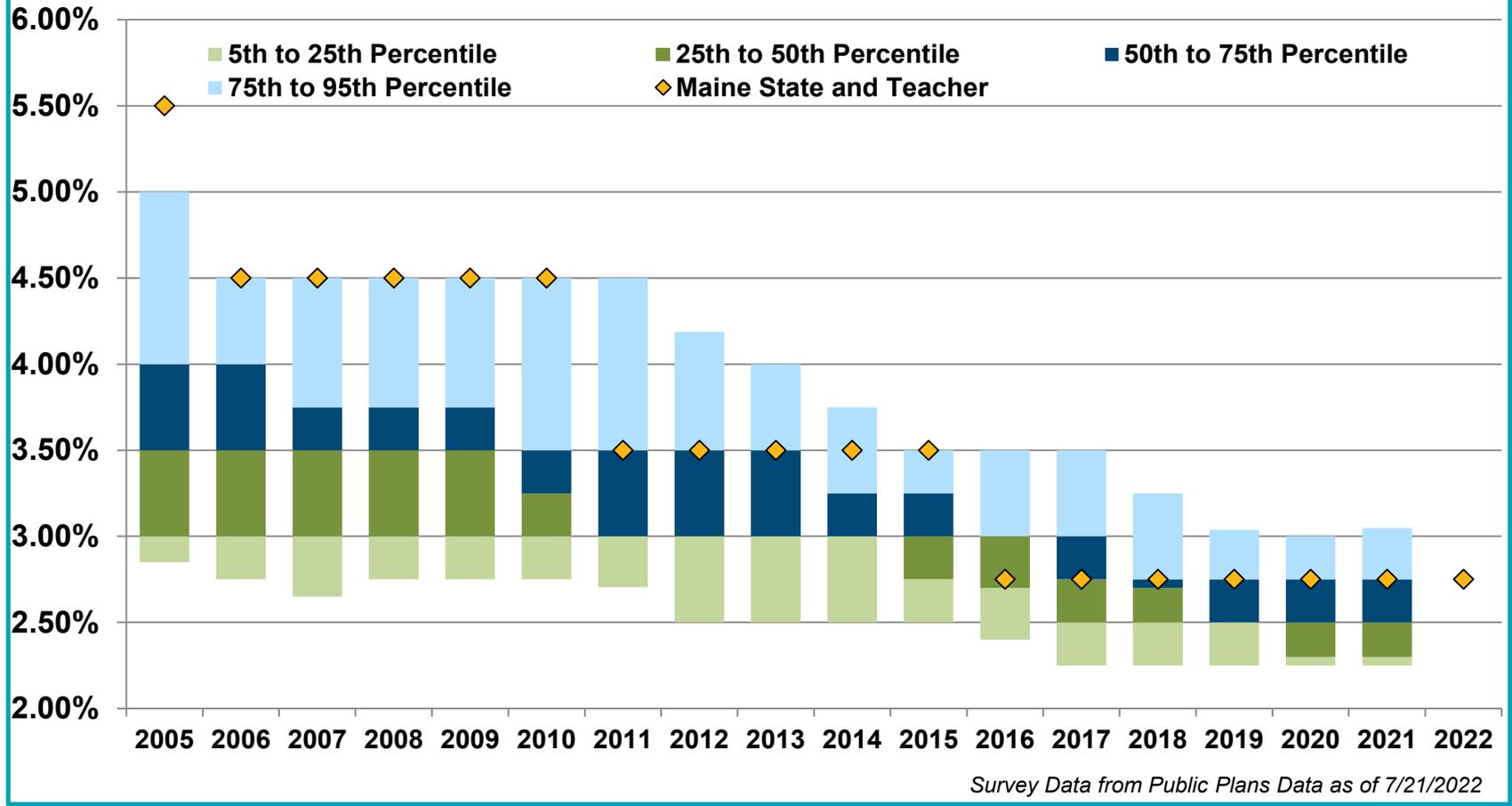
Discount Rate



Survey Data from Public Plans Data as of 7/21/2022

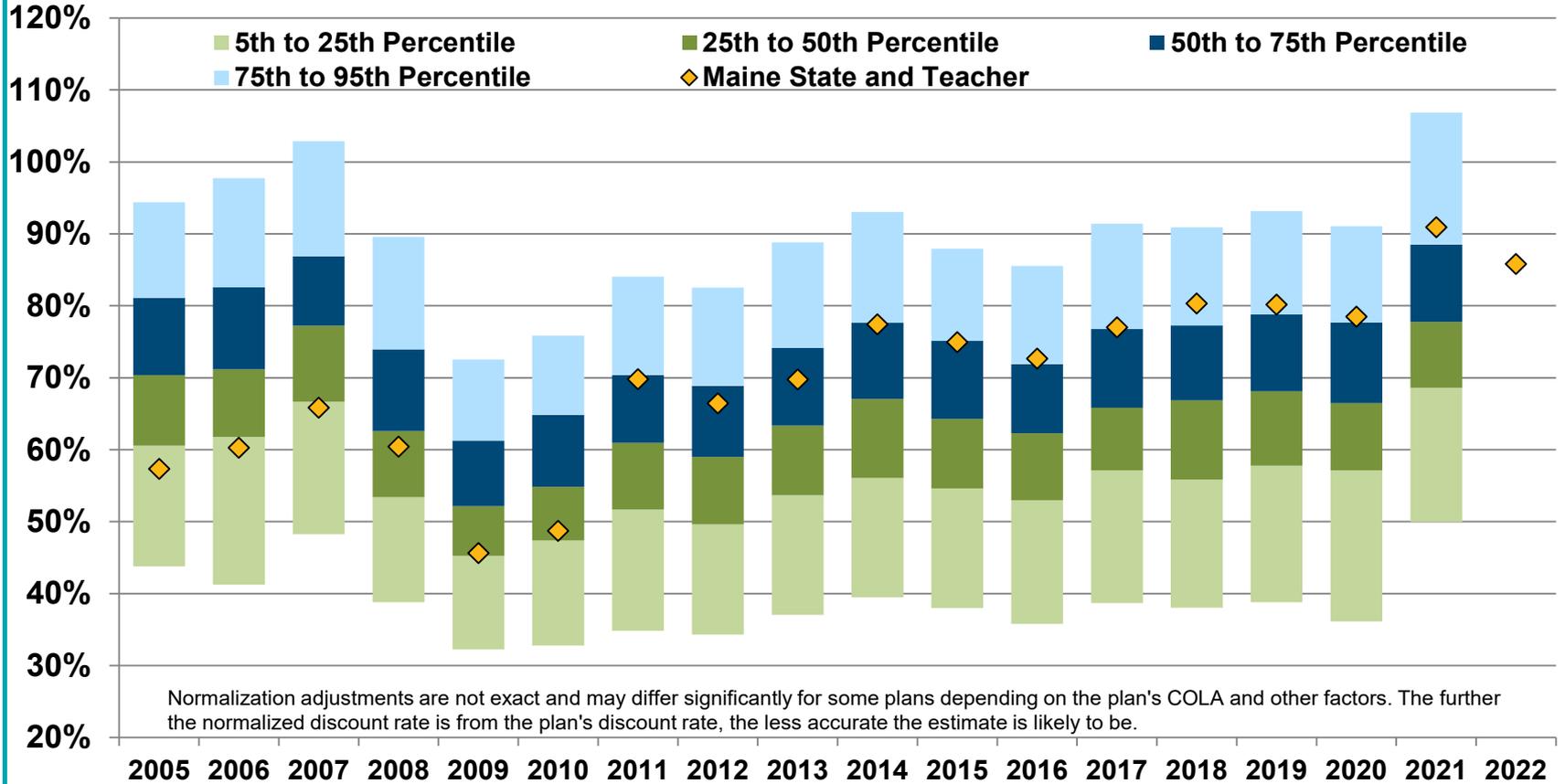
State Employee and Teacher Only

Inflation



State Employee and Teacher Only

MVA Funded Ratio - Normalized

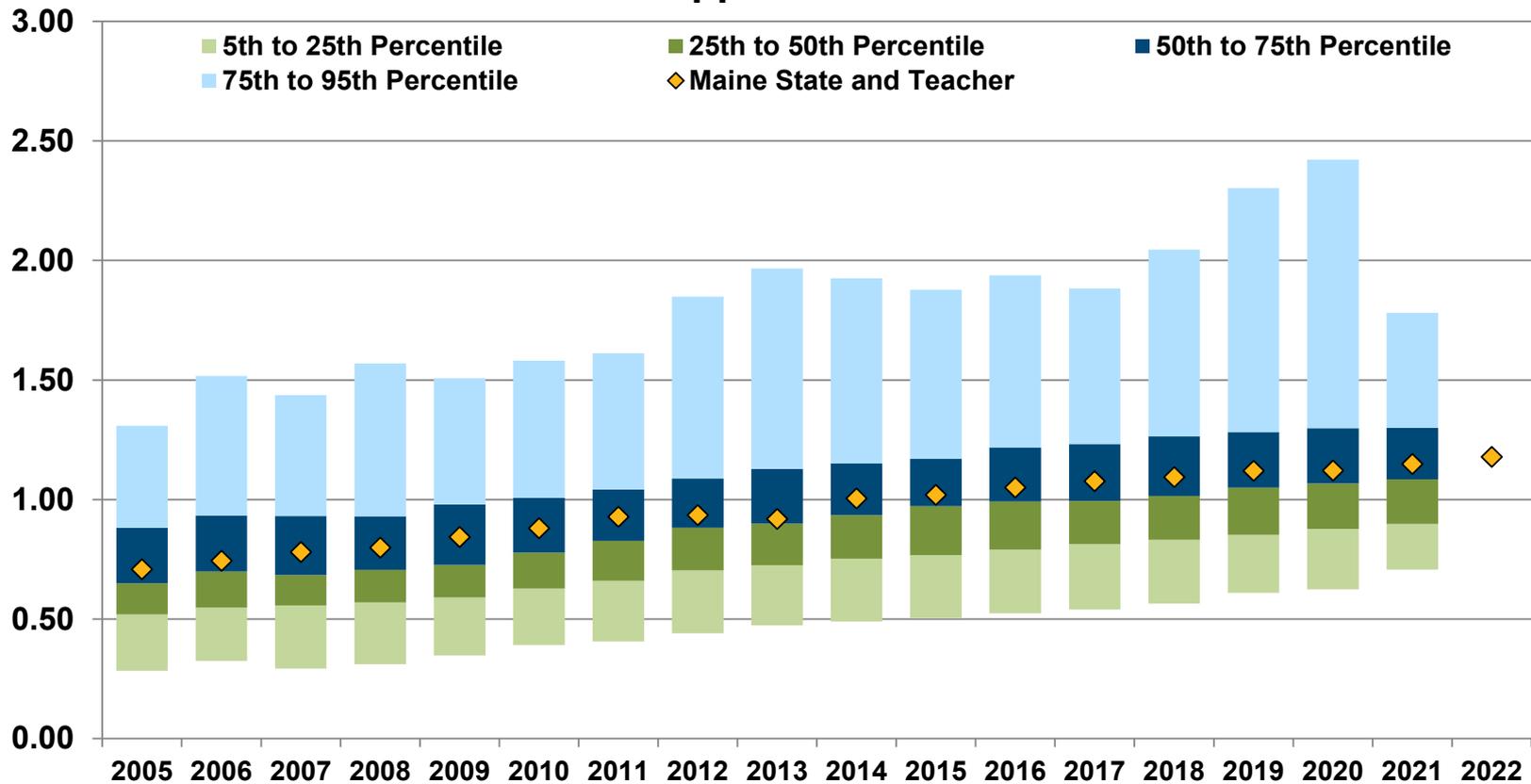


Normalization adjustments are not exact and may differ significantly for some plans depending on the plan's COLA and other factors. The further the normalized discount rate is from the plan's discount rate, the less accurate the estimate is likely to be.

Survey Data from Public Plans Data as of 7/21/2022

State Employee and Teacher Only

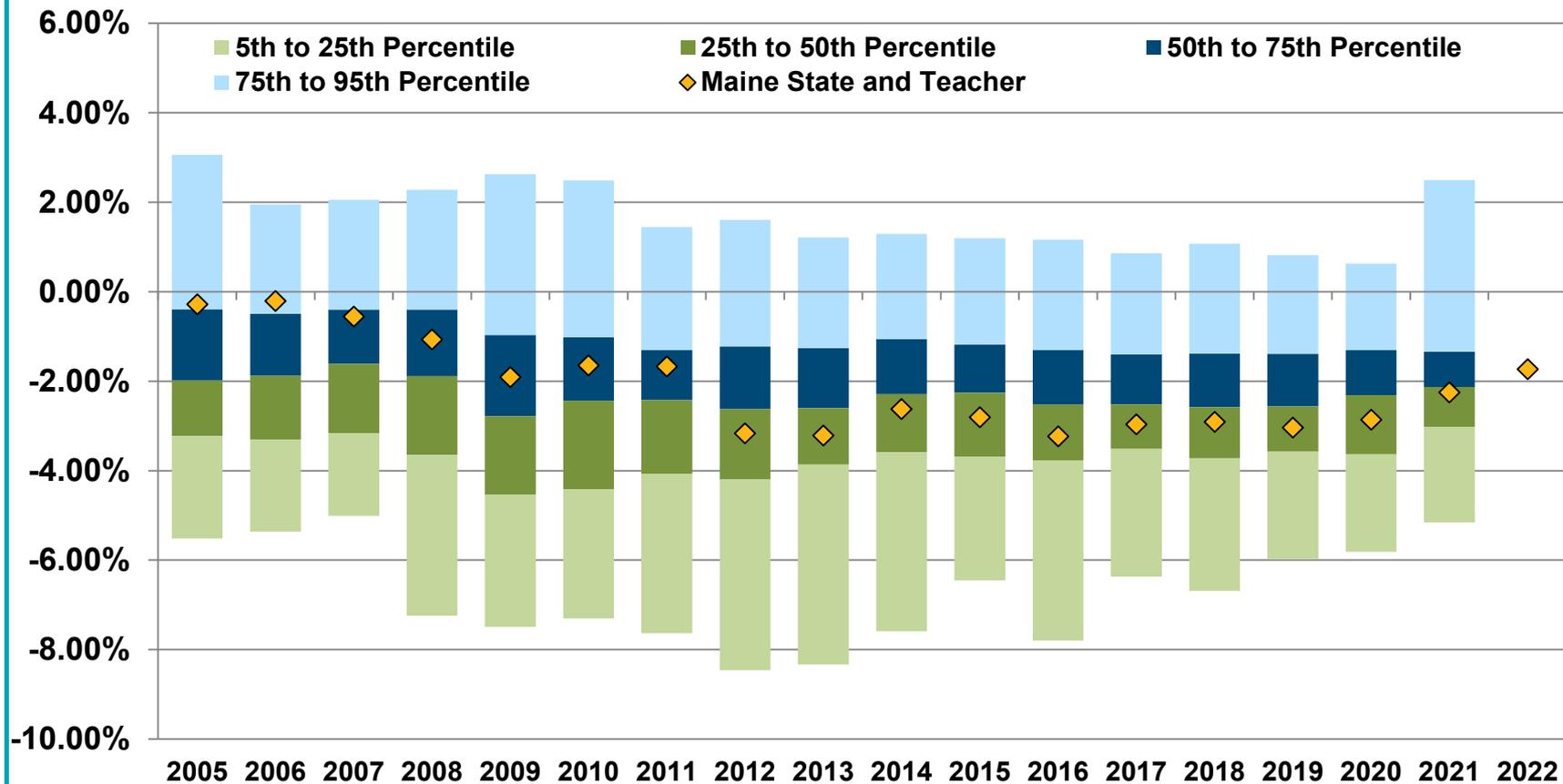
Support Ratio



Survey Data from Public Plans Data as of 7/21/2022

State Employee and Teacher Only

Net Cash Flow Rate



Survey Data from Public Plans Data as of 7/21/2022

Valuation Results

State/Teacher, Legislative, Judicial and Consolidated PLD Plans

Valuation Results: S/T Plan

(all dollars are in millions) *except for average salary & benefit		June 30,			
		2021	2022	2022	2021 to 2022
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>
Actives	40,099			40,121	0.1%
Payroll	\$ 2,199	\$ 2,260		\$ 2,265	3.0%
Average Salary *	\$ 54,851			\$ 56,463	2.9%
In Pay Status	37,690			38,408	1.9%
Total Annual Benefits	\$ 884	\$ 951		\$ 931	5.4%
Average Benefit *	\$ 23,456			\$ 24,250	3.4%
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 16,392	\$ 16,936		\$ 16,982	3.6%
Actuarial Value of Assets	\$ 13,461	\$ 14,262		\$ 14,248	5.8%
Unfunded Actuarial Liability (UAL)	\$ 2,931	\$ 2,674		\$ 2,734	-6.7%
Actuarial Funded Ratio	82.1%	84.2%		83.9%	
Market Value of Assets (MVA)	\$ 14,901	\$ 14,414		\$ 14,569	-2.2%
MVA Funded Ratio	90.9%	85.1%		85.8%	
Accrued Liabilities	\$ 14,841	NC		\$ 15,383	3.7%
Unfunded Accrued (using MVA)	\$ (60)	NC		\$ 814	NC
Accrued Funded Ratio	100.4%	NC		94.7%	
<u>Total Contribution</u>					
Normal Cost Rate	4.64%	4.64%		4.58%	
UAL Rate	17.08%	15.93%		16.07%	
Total Calculated Rate	21.72%	20.57%		20.65%	

source: Cheiron 53

Valuation Results: Legislative

<i>(all dollars are in thousands)</i> <i>*except for average salary & benefit</i>		June 30,			
		<u>2021</u>	<u>2022</u>	<u>2022</u>	<u>2021 to 2022</u>
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>	
Actives	178		174		-2.2%
Payroll	\$ 2,802	\$ 2,879	\$ 2,801		0.0%
Average Salary *	\$ 15,742		\$ 16,099		2.3%
In Pay Status	222		223		0.5%
Total Annual Benefits	\$ 502	\$ 618	\$ 529		5.4%
Average Benefit*	\$ 2,261		\$ 2,372		4.9%
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 10,678	\$ 11,192	\$ 10,977		2.8%
Actuarial Value of Assets	\$ 15,049	\$ 15,739	\$ 15,788		4.9%
Unfunded Actuarial Liability (UAL)	\$ (4,371)	\$ (4,547)	\$ (4,811)		10.1%
Actuarial Funded Ratio	140.9%	140.6%	143.8%		
Market Value of Assets (MVA)	\$ 16,659	\$ 15,907	\$ 16,143		-3.1%
MVA Funded Ratio	156.0%	142.1%	147.1%		
Accrued Liabilities	\$ 10,309	NC	\$ 10,791		4.7%
Unfunded Accrued (using MVA)	\$ (6,350)	NC	\$ (5,352)		-15.7%
Accrued Funded Ratio	161.6%	NC	149.6%		
<u>Total Contribution</u>					
Normal Cost Rate	5.74%	5.74%	3.46%		
UAL Rate	-5.74%	-5.74%	-3.46%		
Total Calculated Rate	0.00%	0.00%	0.00%		

source: Cheiron 54

Valuation Results: Judicial

<i>(all dollars are in thousands)</i> <i>*except for average salary & benefit</i>		June 30,			
		<u>2021</u>	<u>2022</u>	<u>2022</u>	<u>2021 to 2022</u>
<u>Membership</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>Valuation</u>	<u>% change</u>
Actives	60			60	0.0%
Payroll	\$ 8,745	\$ 8,986		\$ 8,694	-0.6%
Average Salary *	\$ 145,752			\$ 144,897	-0.6%
In Pay Status	85			90	5.9%
Total Annual Benefits	\$ 4,730	\$ 5,099		\$ 5,350	13.1%
Average Benefit *	\$ 55,647			\$ 59,449	6.8%
<u>Assets and Liabilities</u>					
Actuarial Liability	\$ 75,788	\$ 77,615		\$ 77,426	2.2%
Actuarial Value of Assets	\$ 81,208	\$ 83,665		\$ 83,933	3.4%
Unfunded Actuarial Liability (UAL)	\$ (5,420)	\$ (6,050)		\$ (6,507)	20.1%
Actuarial Funded Ratio	107.2%	107.8%		108.4%	
Market Value of Assets (MVA)	\$ 89,894	\$ 84,557		\$ 85,821	-4.5%
MVA Funded Ratio	118.6%	108.9%		110.8%	
Accrued Liabilities	\$ 71,860	NC		\$ 73,878	2.8%
Unfunded Accrued (using MVA)	\$ (18,033)	NC		\$ (11,943)	-33.8%
Accrued Funded Ratio	125.1%	NC		116.2%	
<u>Total Contribution</u>					
Normal Cost Rate	12.17%	12.21%		12.71%	
UAL Rate	-7.48%	-8.12%		-9.03%	
Total Calculated Rate	4.69%	4.09%		3.68%	

source: Cheiron 55

Valuation Results: Consol. PLD

<i>(all dollars are in millions)</i> <i>*except for average salary & benefit</i>		June 30, 2021	June 30, 2022	2021 to 2022
Membership		Valuation	Valuation	% change
Actives		11,704	12,362	5.6%
Payroll		\$ 664	\$ 738	11.2%
Average Salary *		\$ 56,713	\$ 59,704	5.3%
In Pay Status		10,093	10,400	3.0%
Total Annual Benefits		\$ 178	\$ 190	6.6%
Average Benefit *		\$ 17,615	\$ 18,224	3.5%
Assets and Liabilities				
Actuarial Liability		\$ 3,719	\$ 3,944	6.0%
Actuarial Value of Assets		\$ 3,389	\$ 3,597	6.1%
Unfunded Actuarial Liability (UAL)		\$ 330	\$ 347	5.0%
Actuarial Funded Ratio		91.1%	91.2%	
Market Value of Assets (MVA)		\$ 3,751	\$ 3,678	-2.0%
MVA Funded Ratio		100.9%	93.3%	
Accrued Liabilities		\$ 3,347	\$ 3,674	9.8%
Unfunded Accrued (using MVA)		\$ (404)	\$ (3)	-99.2%
Accrued Funded Ratio		112.1%	100.1%	
Composite Contribution		for FY 2023	for FY 2024	
Total Normal Cost Rate		14.1%	14.2%	
UAL Rate		4.6%	4.5%	
Total Calculated Rate		18.7%	18.7%	
Final Aggregate Employer Paid		10.8%	10.9%	
Final Aggregate Member Paid		7.8%	7.8%	

MAINEPERS

BOARD OF TRUSTEES MEMORANDUM

TO: BOARD MEMBERS
FROM: MICHAEL J. COLLERAN, CHIEF OPERATING OFFICER & GENERAL COUNSEL
CHIP GAVIN, CHIEF SERVICES OFFICER
SUBJECT: OPERATIONS AND MEMBER SERVICES REPORT
DATE: FEBRUARY 1, 2023

Content in the following paragraphs was selected to provide noteworthy information regarding the System's operations and member services.

POLICY REFERENCE

[Board Policy 4.5 – Board/Staff Relations](#)

[Board Policy 4.6 – Communications and Support to the Board](#)

MEMBER SERVICES

1. CUSTOMARY SERVICES DATA. The data about routine member services are attached to this report.
2. COLA. Preparations are on track to implement the retroactive one percent cost of living adjustment for PLD plan participants with the February 2023 payroll. This will include both hard copy and electronic notice to recipients, information posted on the MainePERS website, and a special message on the MainePERS telephone system. PLD employers will also be alerted about the retroactive COLA, should they be contacted by former employees. MainePERS is monitoring potential Legislative action regarding COLA's also.
3. MEMBER PORTAL PROJECT. MainePERS as planned successfully transitioned its existing online portal for employers to a new multi-factor log-in system. The new log-in protocol was an improvement for the employer portal and a key objective for efforts also to provide a portal for member access. Pursuing the member portal is in keeping with Goal IV (Cultivation of a Member Centric Organization, objective E in particular) and many other components of the Strategic Plan.
4. DISABILITY SERVICES, PUBLIC LAW 2021, CH. 277. MainePERS has submitted the Disability Retirement report required by this provision of law and as discussed with Trustees in January. A presentation about the program was scheduled before the Joint Standing Committee on Labor and Housing for February 2, 2023.

Follow up information in response to questions from Trustees at the last Trustee meeting regarding Maine's Actively Seeking Work program within the Disability Services program will be addressed at this Trustee meeting. In brief, the Actively seeking work program is intended under law to provide Disability Retirement recipients who are capable of substantially gainful activity and who otherwise would be subject to termination of benefits instead to receive Disability Retirement benefits for an additional period of time provided certain criteria are met. MainePERS currently has experienced as many as 23 participants in the program (2016) and currently there are three. The reduction is in large part pandemic related.

5. Tax document season member services activities: During this current tax document season MainePERS proactively applied recent retro-active cost of living adjustments tools to serve members better in the tax season context. MainePERS callers seeking tax information, for example, will have additional dedicated options available to them including phone system messaging and call routing.
6. Staffing: Member services and retirement services in particular continues to confront recruitment and attrition challenges. Of the 20 positions in the important Pension Associate job series (Pension Associate I, II and III), and including several new hires scheduled to start in those roles effective February 6, the vacancy rate will be 25 percent. Of the 15 positions that are expected to be occupied at that time, just nine will be held by individuals with more than a year of experience.

FINANCIAL

1. ACCOUNTING AND FINANCE. The supplemental audits related to GASB 68 and GASB 75 have been completed, and the schedules and audit reports have been posted to our web site. Staff is preparing for the scheduled upgrade of our accounting and financial reporting software next month.
2. EMPLOYER REPORTING. Employers submitted defined benefit payrolls on time at an 86.7% rate in January, which is slightly below the fiscal year to date monthly average of 88.8% and last January's 92%. Work continues assisting late-reporting employers to become current. Staff also are working with payroll vendors used by many employers to improve accuracy and timeliness of reporting. Our dedicated Training Specialist has been conducting monthly training sessions with employer payroll staff and one-on-one training for new employers and staff.
3. EMPLOYER AUDITING. Three audits were completed in January, each of which revealed contribution errors that staff are working to resolve with the employers. Ninety-two percent of all findings to date have been resolved satisfactorily.

ADMINISTRATION

1. HUMAN RESOURCES. As noted in the Member Services portion of the report, recruitment and turnover continue to be a focus. We had two employees depart in January, and had two promotions and one other internal position change. We are actively recruiting 11 positions.
2. FACILITIES. Water damage repairs to one of our Portland offices continue. Replacement carpet is on backorder. Security upgrades to our reception area are being installed this week.

3. DOCUMENT CENTER. Document Center staff successfully completed the annual 1099-R production and the January benefits payroll, which together totaled more than 130,000 mailings. They also process 300-500 pieces of mail a day.
4. BUSINESS CONTINUITY. We will conduct a test of our ability to communicate with Board members using the Text-Em-All platform during the February meeting.

INFORMATION TECHNOLOGY

1. BOARD SOFTWARE. Govenda training for Board members and others was completed in January. Joy Childs and IT staff will be available to assist and answer questions during the Board meeting.
2. KINDLE BOOK. IT staff will collect Board iPads during lunch at the February meeting to download the digital version of *One of a Kind, A Practical Guide for 21st Century Public Pension Trustees*, a Board education resource. Installation is expected to be completed before the end of lunch.

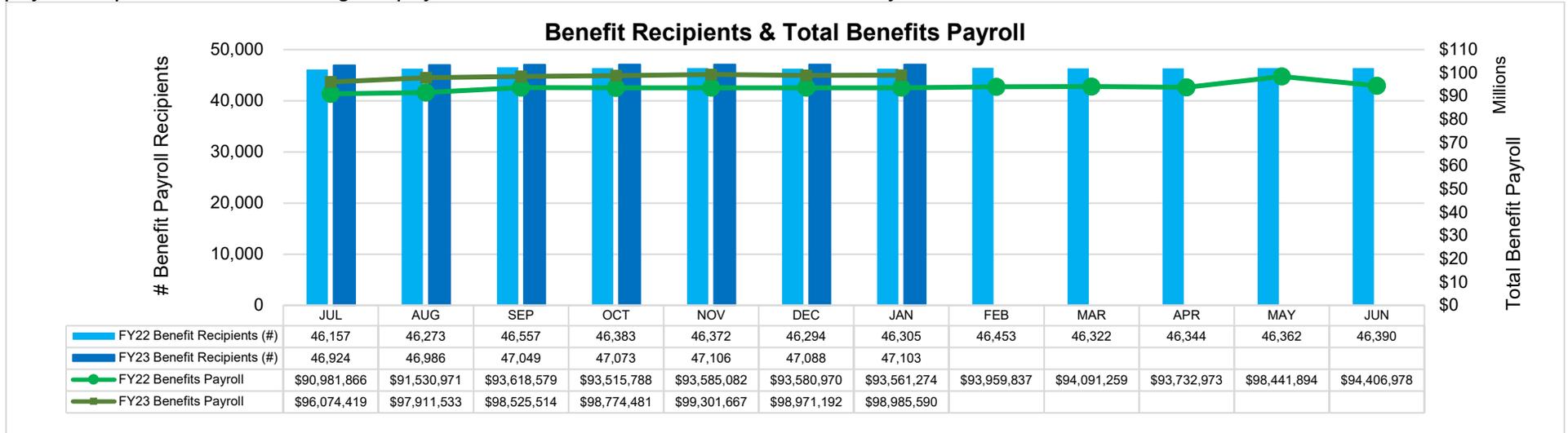
RECOMMENDATION

No Board action is recommended at this time.

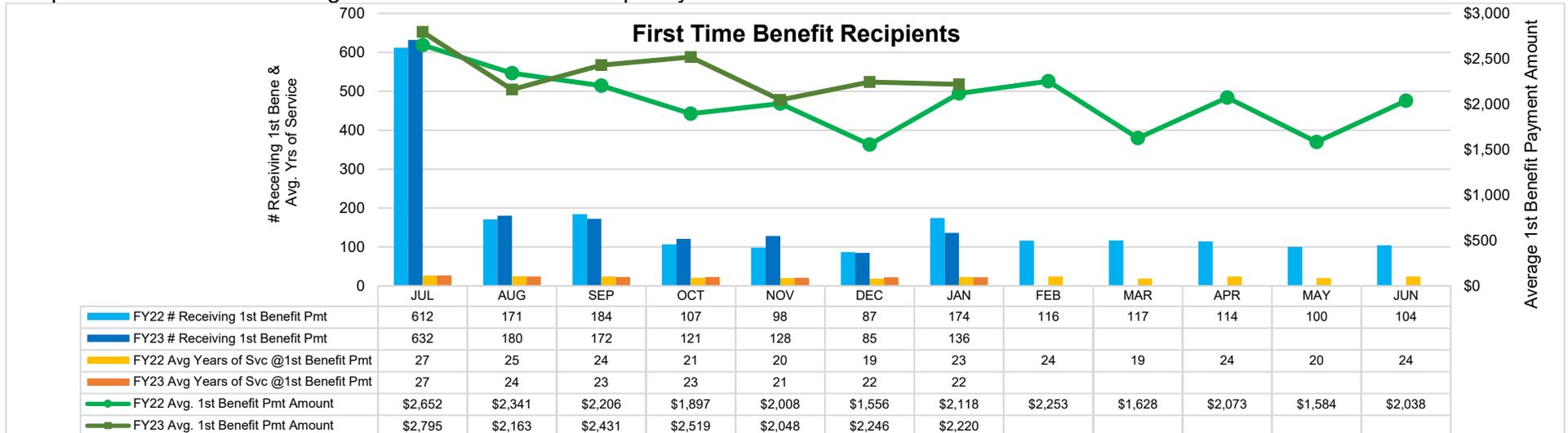
FEBRUARY 2023 BOARD OF TRUSTEES OPERATIONS - SERVICE PROGRAMS SUPPLEMENTAL NUMBERS

RETIREMENT SERVICES

BENEFITS PAYROLL. Regular monthly pension benefit payments were made to 47,103 recipients in January, totaling \$98,985,590. *Note: Special payments paid outside of the regular payroll run are not reflected in the “Benefits Payroll” total.*

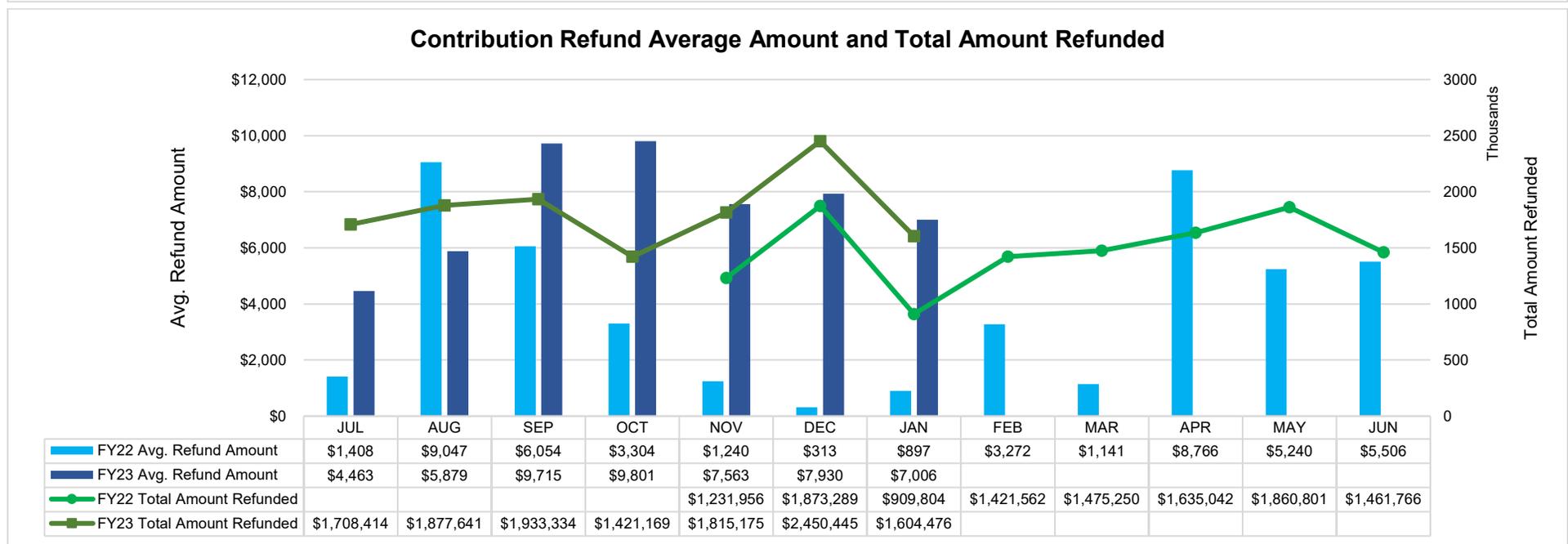
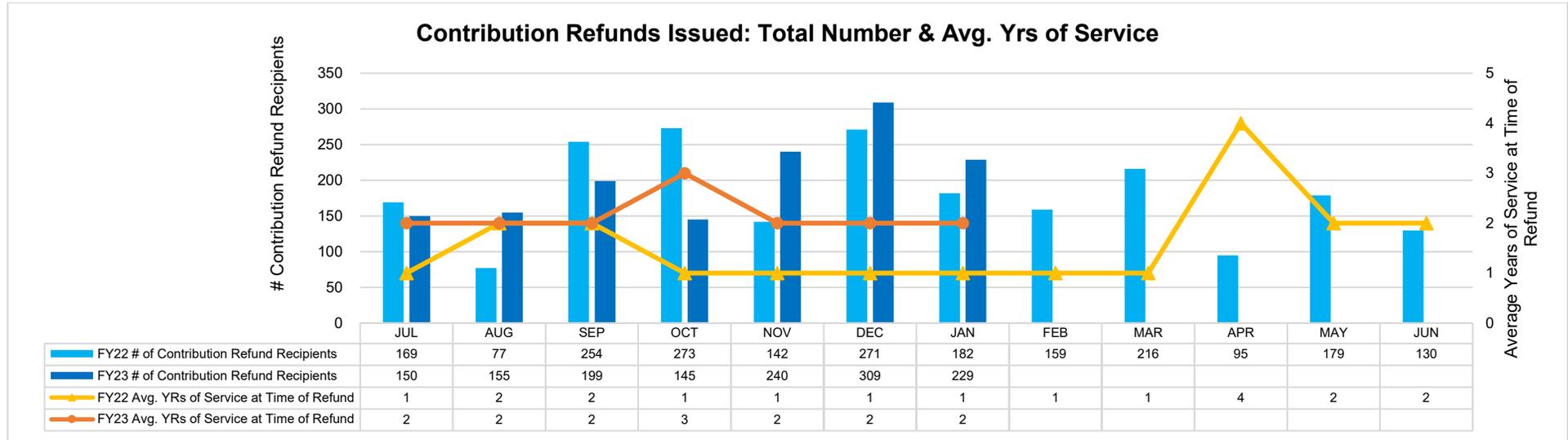


FIRST TIME BENEFIT RECIPIENTS. One hundred thirty six (136) individuals received their first benefit payment in January. The average benefit amount was \$2,220. First time recipients averaged twenty-two (22) years of service. The count of new recipients, payment amount, and service are comparable to data seen during the same month in recent prior years.



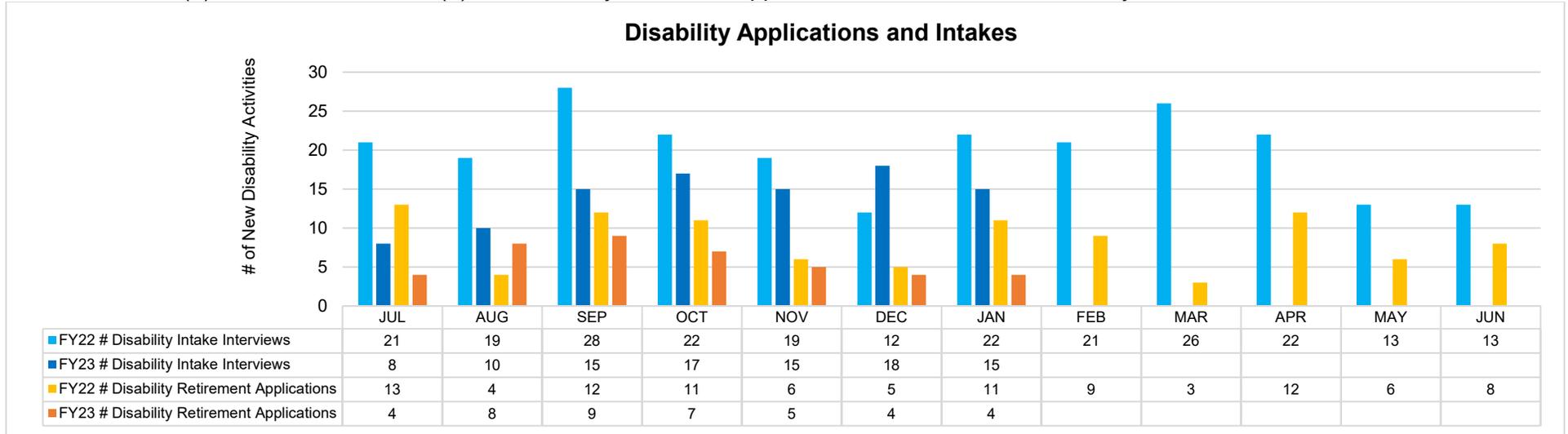
RETIREMENT SERVICES: Continued

CONTRIBUTION REFUND ISSUES: Two hundred twenty nine (229) former members received a refund of their contributions in January. The average refund was \$7,006 as the result of two (2) years of service. The aggregate amount refunded was \$1,604,476.



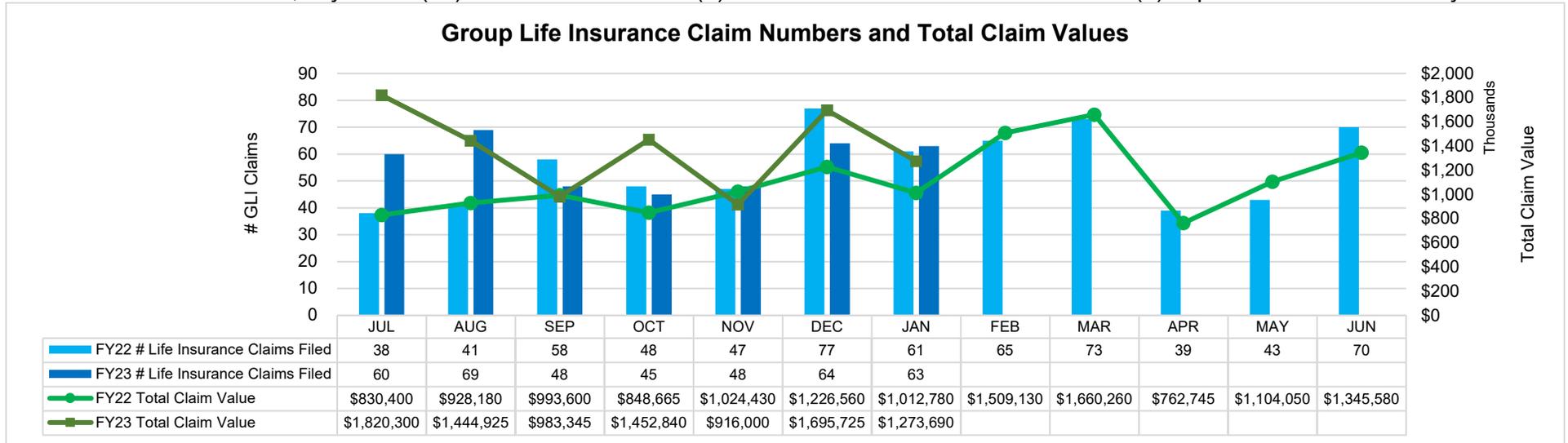
DISABILITY SERVICES

Fifteen (15) intake interviews were completed in January with varying levels of detail and duration. Intakes included four (4) State members, five (5) Teacher and six (6) PLD members. Four (4) new disability retirement applications were received in January.



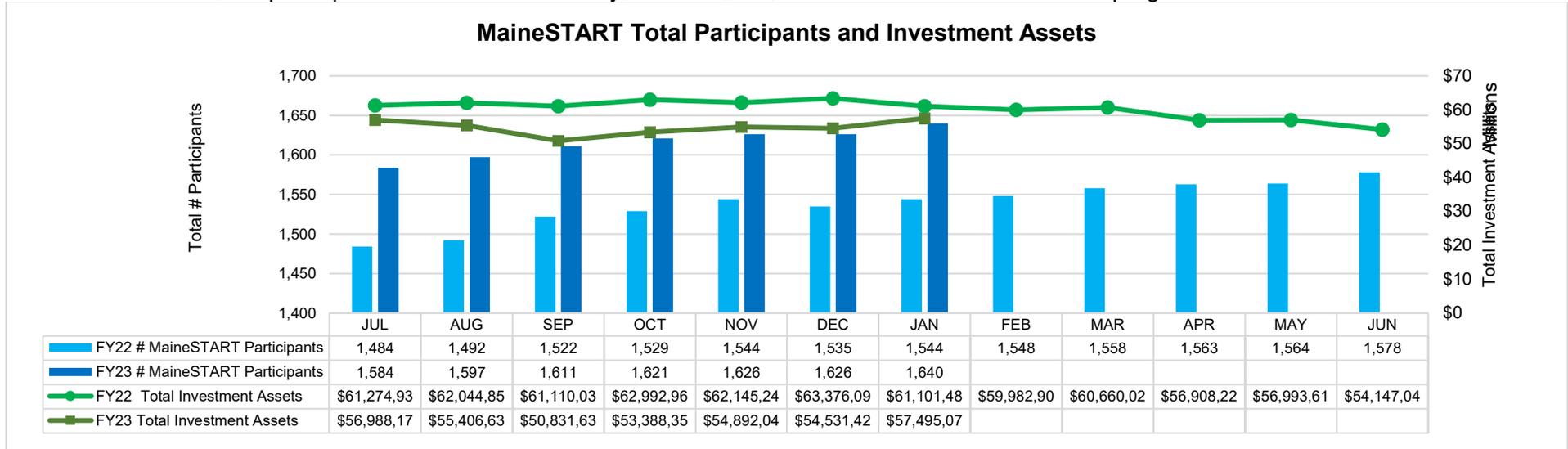
SURVIVOR SERVICES

Sixty-three (63) life insurance claims were sent to our carrier (The Hartford) in January, with a total value of \$1,273,690 in payments due to beneficiaries. Of the claims, fifty-seven (57) were retirees and six (6) were active members. There was one (1) dependent claim in January.



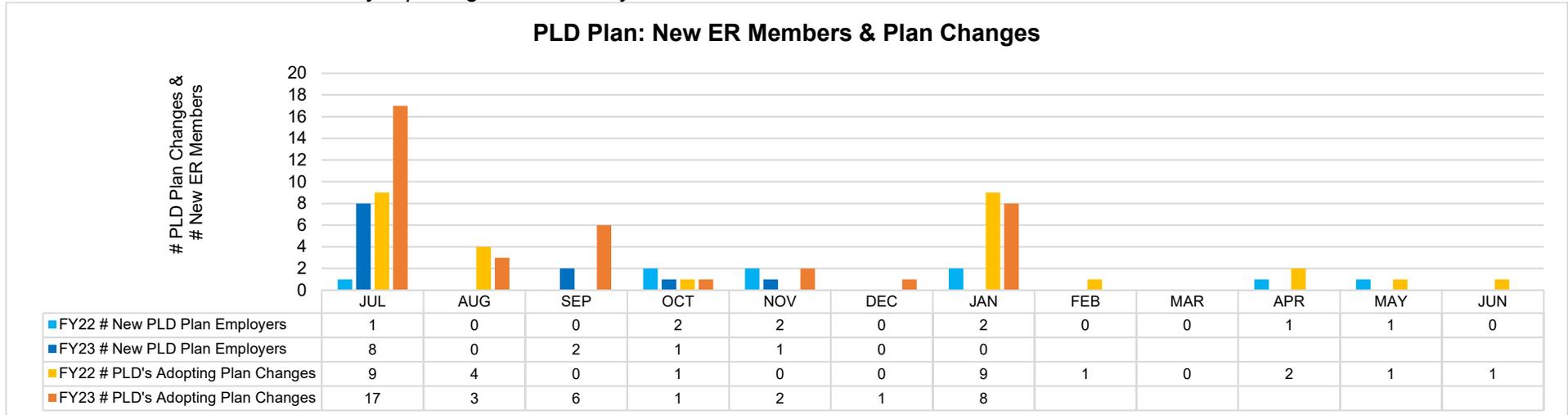
DEFINED CONTRIBUTION PLAN SERVICES

MaineSTART had 1,640 participants at the end of January, with \$57,495,075 of investment assets in the program.



PLD PLAN ADMINISTRATION

No new employers joined the PLD Retirement Program in January. Eight (8) employers made plan changes effective in January, including law enforcement, police officers, firefighters, dispatchers, general government employees and elected/appointed officials for future service only. *Note: This metric reflects PLD employer changes (joining, returning, adopting plan changes) in the month of their implementation. This format is consistent with MainePERS activity reporting to our actuary.*



MAINEPERS

BOARD OF TRUSTEES MEMORANDUM

TO: BOARD MEMBERS
FROM: DR. REBECCA M. WYKE, CEO
SUBJECT: BOARD POLICY REVIEW, CHIEF EXECUTIVE OFFICER
PERFORMANCE
DATE: FEBRUARY 1, 2023

The Board has adopted a process of reviewing each Board Policy at least every three years and revising and updating as needed. Board Policy 4.3 has been amended to reflect the current job title and other minor clarifications. Additionally, the Policy has been updated to include a periodic comprehensive evaluation consistent with good governance practices.

POLICY REFERENCE

[Policy 4.3 - Monitoring Chief Executive Officer Performance](#)

RECOMMENDATION

That the Board approve amended Board Policy 4.3.

Governance Manual

MainePERS Board of Trustees

Board – ~~Executive Director~~Chief Executive Officer Coordination

4.3 – Monitoring ~~Executive Director~~Chief Executive Officer Performance

Date Adopted: June 13, 2013

Date Amended: ~~New~~February 9, 2023

Policy

The Board of Trustees has a duty to carefully monitor the performance of the ~~Executive Director's performance~~Chief Executive Officer in implementing the delegated authority.

Annual Evaluation

~~All Trustees shall collectively evaluate the Executive Director annually. The Board Chair shall lead the Board in an annual performance evaluation of the Chief Executive Officer. The evaluation shall occur at the end of each successive twelve--month period following the date of hire.~~

~~Trustees~~The Board shall evaluate the ~~Executive Director~~Chief Executive Officer in the following categories:

- Leadership;
- Management;
- Communications;
- Policy matters; and
- Staff development.

~~The Executive Director shall provide Trustees with an evaluation form and with a summary of accomplishments in each category and an assessment of the System's progress against strategic goals. These shall be provided to Trustees in the first month following the completion of each year of service as Executive Director. In the first month following the completion of each year of service, the Chief Executive Officer shall provide the Board Chair with a self-assessment including accomplishments in each category of the evaluation form (Attachment 1), an assessment of the System's progress against the strategic plan, and a set of proposed goals for the coming year.~~

~~Trustees shall provide the completed evaluation form to the Board Chair within two weeks of receiving the form and supporting documentation. The Board Chair will provide Trustees with the Chief Executive Officer's self-evaluation and the evaluation form. Trustees shall provide the Board Chair with the completed evaluation form within two weeks of receiving the Chief Executive Officer's self-evaluation and the evaluation form.~~ Numeric rankings are a method to provide relative feedback, not a numeric overall ranking. Written comments should be used to more fully document the numeric rankings.

Governance Manual

MainePERS Board of Trustees

The Board Chair shall compile individual Trustee evaluations for ~~Trustees~~the Board to review collectively. ~~Trustees collectively~~The Board shall discuss and reach consensus on the overall evaluation. The Board Chair shall write the Board's performance evaluation based on this discussion. The Board's evaluation may be discussed with the ~~Executive Director~~Chief Executive Officer in ~~e~~Executive ~~s~~Session ~~with the full Board or a delegate(s)~~.

Comprehensive Evaluation

In the second year of the Chief Executive Officer's service and every four years thereafter, the annual review will be replaced with a comprehensive evaluation according to the following guidelines:

1. A review committee will be established including the Chair and Vice Chair of the Board of Trustees. The review committee will develop a schedule for the comprehensive evaluation to be completed.
2. The review committee and the Chief Executive Officer will agree on the selection of an external reviewer to conduct the comprehensive evaluation and to report to the review committee.
3. The Chief Executive Officer shall provide the Board Chair with a self-assessment including accomplishments in each category of the evaluation form, an assessment of the System's progress against the strategic plan, and a set of proposed goals for the coming year. This shall be provided to the Board Chair in the first month following the anniversary of service as Chief Executive Officer.
4. The external reviewer will utilize the categories included in the evaluation form as the criteria for assessing the Chief Executive Officer's performance and will meet with the review committee to discuss the comprehensive evaluation process and the self-assessment, and to identify any other issues to be considered.
5. The external reviewer will meet with the Chief Executive Officer to discuss the comprehensive evaluation process and the self-assessment, and to identify any other issues to be considered.
6. The external reviewer will interview or survey all members of the Board of Trustees for the comprehensive evaluation.
7. The review committee and the Chief Executive Officer will each develop a list of other parties to be interviewed or surveyed by the external reviewer, including members of the executive and senior administrative staff. The external reviewer will select parties from these lists to be interviewed or surveyed, ensuring balanced representation from both lists.
8. The external reviewer will prepare a draft report and meet first with the review committee and then the Chief Executive Officer to discuss the findings.
9. The external reviewer will finalize the report and forward it to the review committee and the Chief Executive Officer. The review committee and the Chief Executive Officer will meet to discuss the report.
10. The review committee will forward the final report to the Board of Trustees.

Governance Manual

MainePERS Board of Trustees

11. The Board will meet in executive session to discuss the report with the Chief Executive Officer.

Governance Manual

MainePERS Board of Trustees

Board - ~~Executive Director~~ Chief Executive Officer Coordination

4.3 - Attachment 1 - ~~Executive Director~~ Chief Executive Officer

Evaluation Form

Date Adopted: June 13, 2013

Date Amended: ~~New~~ February 9, 2023

~~Executive Director~~ Chief Executive Officer Name:

Evaluation Date:

Leadership Rating _____

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

- _____ Inspires confidence, establishes credibility with Board, staff, members, retirees, and legislators
- _____ Maintains a “big picture” outlook and is aware of industry issues
- _____ Exhibits diligence in leading the organization
- _____ Thoroughly prepares issues for the Board to discuss
- _____ Forecasts trends, responds to change, and invites innovation
- _____ Solicits and acts upon ideas of others when appropriate
- _____ Provides direction and support to the Board regarding its statutory and fiduciary obligations
- _____ Projects a positive image as the ~~Executive Director~~ Chief Executive Officer of MainePERS

General Comments or Examples:

Governance Manual

MainePERS Board of Trustees

Management Rating _____

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

- _____ Manages MainePERS' activities in accordance with relevant laws and Board policies
- _____ Develops reasonable budgets, communicates them to the Board, and operates within budgetary limits
- _____ Ensures the efficient and effective functioning of the System through delegation to the executive and senior administrative staff and outside service providers
- _____ Assesses and advises on adequate security for all official documents and technology systems
- _____ Exhibits skill in problem solving

General Comments or Examples:

Communications Rating _____

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

- _____ Keeps the Board and staff informed, and effectively communicates with them
- _____ Organizes ideas and information logically
- _____ Speaks clearly and concisely, using understandable terminology
- _____ Effectively communicates with the Board
- _____ Effectively communicates with stakeholders, members and retirees when appropriate
- _____ Effectively communicates with government officials, legislators, service providers, the media, and the general public

General Comments or Examples:

Governance Manual

MainePERS Board of Trustees

Policy Matters Rating _____

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

- _____ Periodically reviews Board policies and Board-rules, and makes recommendations to the Board for changes Board in Board policies and rules
- _____ Effectively interprets Board policies and concerns, and develops a consistent direction for the staff to follow
- _____ Initiates changes in day-to-day operations to conform to established Board policies
- _____ Acts creatively to evaluate and recommend new programs or policies

General Comments or Examples:

Staff Development Rating _____

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

- _____ Creates an atmosphere that fosters teamwork, creativity, and participation
- _____ Sets clear standards of performance for the executive and senior administrative staff
- _____ Encourages professional development and appropriate training of staff
- _____ Addresses ~~a~~ succession planning for key positions within the System

General Comments or Examples:

Rating Summary

5 – Outstanding, 4 – Above Average, 3 – Satisfactory, 2 – Needs Improvement, 1 – Unacceptable

Categories	Rating
Leadership	
Management	
Communications	
Policy Matters	
Staff Development	
Average	

Summary Comments: