

DATE: May 3, 2023

TO: Senator Michael Tipping, Chair  
Representative Amy Roeder, Chair  
Members, Joint Standing Committee on Labor and Housing

FROM: Kathy J. Morin, Director, Actuarial and Legislative Affairs

SUBJECT: Testimony on L.D. 1759 – An Act to Clarify the Disability Retirement Program of the Maine Public Employees Retirement System

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Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing. My name is Kathy Morin, and I am the Director of Actuarial and Legislative Affairs for the Maine Public Employees Retirement System.

MainePERS is neither for nor against L.D. 1759. We are here to provide information and offer any assistance the Committee might need regarding this bill.

L.D. 1759 would provide definitions of “gainful occupation” and “gainful activity” in the statutes that govern disability retirement benefits, specify types of evidence that must be considered in determining the ability to perform substantially gainful activity, and expand the information that MainePERS must include in its annual legislative report.

A law making extensive changes to the MainePERS disability retirement program was enacted in the 130th Legislature to ensure a member applying for a disability retirement benefit has every opportunity to provide information and enable an accurate assessment of their eligibility for the benefit. That new law has been in effect since October 18, 2021 for disability retirement applications filed on or after that date. While there is limited experience since these changes went into effect, the experience of members completing the application process in the first year of implementation was positive. MainePERS submitted a report on this experience to the Committee in January pursuant to a requirement in the new law and made a presentation to the Committee on the report on February 2, 2023.

As part of implementing the new law, MainePERS engaged in consensus-based rule development on our disability and appeals programs. One of those rules, Rule Chapter 506, addresses eligibility for disability retirement, including the determination of ability to engage in substantially gainful activity. That rule just became effective on March 1, 2023.

We believe that the way MainePERS currently administers the plan under Rule Chapter 506 is consistent with L.D. 1759’s proposed definitions and evidentiary requirements. That belief is

based in part on the understanding that the bill's reference to "pay or for the generation of profit" also includes self-employment net income and that the bill's reference to "vocational evidence" includes evidence of employment positions available in the labor market for the member's state of residence.

MainePERS would be happy to provide the additional reporting required by L.D. 1759 if that would be useful to the Legislature.

We do have two technical suggestions regarding the bill's language. The bill refers to "service retirement members" and "disability beneficiaries." We suggest changing that terminology to "service retirees" and "disability retirees" for consistency with other statutory provisions and to avoid confusion. We also suggest adding clarification that the new reporting requirements proposed for Section 17103, sub-§ 11, paragraph O, subparagraphs (4)-(5) pertain to suspensions for failure to submit an annual statement of compensation in a timely manner and reductions or terminations because allowable annual earning limits have been exceeded, consistent with proposed subparagraphs (1)-(3).

Thank you for your consideration of this testimony. I would be happy to answer your questions and will be available for the work session.