

Annual List of Rule-Making Activity
Rules Adopted January 1, 2016 to December 31, 2016
Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5

Agency name: **Maine Public Employee Retirement System**
Umbrella-Unit: **94-411**
Statutory authority: 5 MRS §17103(4)
Chapter number/title: **Ch. 204** (*New*), Waiver of Member Payment Requirement Where Caused by Employer Error or Omission
Filing number: **2016-081**
Effective date: 5/8/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule establishes standards for determining whether to grant a waiver under 5 MRS §17103(6) to a member or retiree who, without the waiver, would be required to make payments to the Maine Public Employees Retirement System (“MainePERS”) because of an employer error or omission.

Basis statement / summary:

The MainePERS Board of Trustees has authority under 5 MRS §17103(6) to waive payments that a member or retiree would be required to make if the payment obligation was caused by an employer error or omission. In *Merrill v. Maine Public Employees Retirement System*, 2014 ME 100, the Law Court held that due process requires the Board to make waiver determinations based on standards that are published in advance, either by rule or by legislation. This rule establishes those standards and sets forth a process for determining waiver requests.

The standards in the rule are based on the principle that waivers should be granted only in extraordinary situations. This is because in most situations, if not all, the waiver would result in the member or retiree receiving benefits without having paid the employee contributions or premiums for those benefits. The rule requires the person seeking the waiver to demonstrate that the obligation was not reasonably avoidable, a waiver would not cause material harm, and a denial of the waiver would cause serious financial hardship.

Fiscal impact of rule:

None.

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Agency name: Maine Public Employee Retirement System
Umbrella-Unit: 94-411
Statutory authority: 5 MRS §§ 17103(4), 18801
Chapter number/title: Ch. 803, Participating Local District Consolidated Plan
Filing number: 2016-099
Effective date: 6/5/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule governs the Consolidated Plan for Participating Local Districts. The amendments to the rule incorporate statutory changes enacted by PL 2013 c. 602.

Basis statement / summary:

This chapter establishes a consolidated retirement plan, as required by 5 MRS §18801 *et seq.* for local districts that are participating local districts under 5 MRS ch. 425 before the date the plan is put into operation and for local districts that enter into agreements for the participation of their employees in the Maine Public Employees Retirement System after The Plan is put into operation. **NOTE:** 5 MRS ch. 421, *General Provisions*, is applicable to all activities relating to the Maine Public Employees Retirement System, including the subject matter of this chapter of the rules of the Board of Trustees (“Board”). 5 MRS ch. 427, *Participating Local Districts Consolidated Plan*, is the statute from which this chapter of the rules of the Board derives its authority and is applicable to all activity based upon this chapter.

Fiscal impact of rule:

None.

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Agency name: **Maine Public Employee Retirement System**
Umbrella-Unit: **94-411**
Statutory authority: 5 MRS §§ 1031(5), 17103(4)
Chapter number/title: **Ch. 501**, Eligibility of M.S.R.S. Members to Apply for Disability Retirement Benefits
Filing number: **2016-112** (*Repeal*)
Effective date: 7/4/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MainePERS repeals this rule because of its limited applicability and because it causes confusion for members as to their eligibility for disability benefits. The statute provides the necessary guidance for the few active members still covered by Chapter 1122 disability benefits.

Basis statement / summary:

This rule was enacted to address eligibility for disability retirement benefits under disability statutes that were repealed more than three decades ago. The continued existence of this rule has created confusion for those trying to understand and follow eligibility standards and processes under current law.

Fiscal impact of rule:

None.

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Agency name: **Maine Public Employee Retirement System**
Umbrella-Unit: **94-411**
Statutory authority: 5 MRS §§ 1031(5), 17103(4)
Chapter number/title: **Ch. 508**, Disability Retirement under 5 MRSA §1122 as in Effect
Prior to July 1, 1977
Filing number: **2016-113** (*Repeal*)
Effective date: 7/4/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

MainePERS repeals this rule because of its limited applicability and because it causes confusion for members as to their eligibility for disability benefits. The statute provides the necessary guidance for the few active members still covered by Chapter 1122 disability benefits.

Basis statement / summary:

This rule was enacted to address eligibility for disability retirement benefits under disability statutes that were repealed more than three decades ago. The continued existence of this rule has created confusion for those trying to understand and follow eligibility standards and processes under current law.

Fiscal impact of rule:

None.