

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2177

S.P. 778

In Senate, April 13, 1999

**An Act to Require the Spouse of a Member of the Maine State Retirement System to Receive the Member's Death Benefits.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.

Cosponsored by Senator AMERO of Cumberland, Representative: TOWNSEND of Portland.

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

2           **Sec. 1. 5 MRSA §17951, sub-§2**, as amended by PL 1991, c. 469,  
4 §1, is further amended to read:

6           **2. Qualifying member.** "Qualifying member" means a member  
8 in service or a former member who is receiving a disability  
retirement benefit. Beginning July 1, 1993, for purposes of  
10 section 17953, subsection 1 1-A, "qualifying member" also means a  
member not in service. For purposes of section 17953, subsection  
12 5-B, "qualifying member" also means a member not in service who  
has qualified for a service retirement benefit.

14           **Sec. 2. 5 MRSA §17952**, as amended by PL 1989, c. 658, §1, is  
16 further amended to read:

18           A If a qualifying member is not married, that member may  
designate a beneficiary to receive benefits upon the qualifying  
20 member's death by filing a written designation of beneficiary  
with the executive director. The last designation of any  
22 beneficiary revokes all previous designations. Except as  
provided in subsection 3 and notwithstanding any other provision  
of this article, if the qualifying member is married, the  
24 beneficiary is the qualifying member's spouse.

26           **1. Designation of more than one beneficiary.** A If a member  
is not married, that member may designate more than one person as  
28 a beneficiary subject to the following limitations.

30           A. If more than one person is designated as a beneficiary  
and:

32                   (1) If one of the persons designated is eligible to  
34 receive benefits under section 17953, subsection 3 and  
the other persons designated are eligible to receive  
36 benefits under section 17953, subsection 4, there is no  
limit to the number of persons eligible to receive  
38 benefits under section 17953, subsection 4 who may be  
designated;

40                   (2) If all of the persons designated are eligible to  
42 receive benefits under section 17953, subsection 4,  
there is no limit to the number of persons who may be  
44 designated; or

46                   (3) If all of the persons designated are eligible to  
48 receive benefits under section 17953, subsection 5, no  
more than 2 persons may be designated.

2 B. If the person designated as a beneficiary is the  
member's spouse, that designation includes all of the  
4 member's dependent children so long as the person designated  
meets the definition of spouse in section 17001, subsection  
6 39.

8 **2. Limitations.** If a member designates as beneficiaries 2  
or more persons, all must meet the requirements of one, and only  
10 one, of the subparagraphs of subsection 1, paragraph A;  
otherwise their eligibility to receive a benefit under this  
12 article ~~shall be~~ is limited to section 17953, subsection ~~1~~ 1-A or  
section 17954.

14 3. Waiver by spouse. The spouse of a qualifying member may  
16 waive designation as the sole beneficiary or as a beneficiary by  
filing a waiver with the board. The waiver must be in writing on  
18 forms provided by the board.

20 **Sec. 3. 5 MRSA §17953, sub-§1,** as amended by PL 1991, c. 469,  
§2 and c. 619, §10, is repealed.

22 **Sec. 4. 5 MRSA §17953, sub-§§1-A and 1-B** are enacted to read:

24 1-A. Refund of contributions. The amount of the qualifying  
26 member's accumulated contributions, as determined under section  
17705, is paid:

28 A. To the qualifying member's spouse, if any, unless that  
30 spouse has waived designation as a beneficiary pursuant to  
section 17952, subsection 3;

32 B. To the qualifying member's designated beneficiary, if  
34 any;

36 C. If the qualifying member is not survived by a spouse or  
other designated beneficiary, to the first listed of the  
38 following relatives alive at time of the qualifying member's  
death:

40 (1) A child or children, regardless of age, sharing  
42 equally among themselves; or

44 (2) The older parent; or

46 D. To the qualifying member's estate.

48 1-B. Refund of contributions. The amount of the qualifying  
member's accumulated contributions is paid:

2           A. To the qualifying member's spouse, if any, unless that  
3           spouse has waived designation as a beneficiary pursuant to  
4           section 17952, subsection 3;

5           B. To the qualifying member's designated beneficiary, if  
6           any;

7           C. If the qualifying member is not survived by a spouse or  
8           designated beneficiary, to the first listed of the following  
9           relatives alive at the time of qualifying member's death:

10                   (1) A child or children, regardless of age, sharing  
11                   equally among themselves; or

12                   (2) The older parent; or

13           D. To the qualifying member's estate.

14           **Sec. 5. 5 MRSA §17953, sub-§2, ¶A, as amended by PL 1991, c.**  
15           **469, §2, is repealed and the following enacted in its place:**

16           A. Instead of accepting the payment provided in subsection  
17           1, the first listed of the following persons who are living  
18           at the time of death of the qualifying member may elect the  
19           benefits described in subsections 3 to 5-B:

20                   (1) The spouse, if any;

21                   (2) The designated beneficiary, if any; or

22                   (3) If the qualifying member is not married and no  
23                   beneficiary is designated, the dependent child or  
24                   dependent children, or the parent or parents.

25           **Sec. 6. 5 MRSA §17953, sub-§5-B, as enacted by PL 1991, c.**  
26           **469, §2, is amended to read:**

27           **5-B. Reduced retirement benefits.** Beginning July 1, 1993,  
28           instead of accepting the benefits under subsection 1 1-A or 2,  
29           the first listed person under paragraph A living at the time of  
30           death of the qualifying member may elect the benefits in this  
31           subsection.

32           A. The persons eligible to make the election under this  
33           subsection are the qualifying member's:

34                   (1) Designated-beneficiary Surviving spouse;

35                   (2) Surviving-spouse Designated beneficiary;

36

2 (3) Child or children; or

4 (4) Parent or parents.

6 B. Benefits under this subsection are paid as follows.

8 (1) The benefit is computed in accordance with section  
10 17852, subsection 3, if applicable, as if the service  
retirement of the qualifying member had taken place on  
the date of the member's death.

12 (2) The beneficiary is paid beginning on the first day  
14 of the month after the death of the qualifying member  
and continuing until the last day of the month in which  
the beneficiary's death occurs.

16 (3) Benefits under this subsection are paid in  
18 accordance with section 17804, subsection 3.

20 C. If the monthly benefit payable under this subsection is  
22 \$10 or less, in lieu of those payments a lump sum that is  
the actuarial equivalent of the benefit to which the  
24 beneficiary is entitled must be paid on the date the first  
monthly payment would otherwise be paid. A beneficiary who  
26 receives a lump sum payment under this subsection does not  
forfeit any other benefit to which the member would be  
entitled if the member were receiving a monthly benefit  
28 payment.

30 **Sec. 7. 5 MRSA §17953, sub-§9**, as amended by PL 1991, c. 469,  
§2, is further amended to read:

32 **9. Defeat of survivor's option.** A qualifying member may  
34 specify that the refund of the member's accumulated contributions  
be paid to a designated beneficiary or to the qualifying member's  
36 estate in lieu of any payment to survivors under subsections 3 4  
to 5-B by filing an affidavit expressing that intent with the  
38 executive director. If the qualified member is married, this  
subsection does not apply unless the member's spouse has waived  
40 designation as the sole beneficiary pursuant to section 17952.

42 **Sec. 8. 5 MRSA §17953, sub-§11**, as enacted by PL 1991, c. 469,  
§2, is amended to read:

44 **11. Special options.** Instead of accepting the payment  
46 provided in subsection 1 1-A, 2, 5-A or 5-B, a beneficiary may  
elect to receive benefits under section 17852, subsection 4,  
48 paragraph A; section 17852, subsection 5 or 6; or article 5.

2           A. To elect these benefits, both the qualifying member and  
the beneficiary must comply with each requirement of those  
provisions.

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6           B. If an election is not made under this subsection,  
benefits payable under this section are in lieu of any  
benefits payable under section 17852, subsection 4,  
8           paragraph A; section 17852, subsection 5 or 6; or article 5.

10           **Sec. 9. Contingent effective date.** That section of this Act that  
enacts the Maine Revised Statutes, Title 5, section 17953,  
12           subsection 1-B takes effect only if 26 Code of Federal  
Regulations, Part 31 is amended in a way that the retirement laws  
14           in effect on December 15, 1991 related to part-time, seasonal or  
temporary employees comply with federal law without requiring the  
16           State to contribute to the United States Social Security System  
for those employees. If such a change in federal law is enacted,  
18           the Executive Director of the Maine State Retirement System shall  
immediately notify the joint standing committee of the  
20           Legislature having jurisdiction over legal and veterans affairs.  
Upon this notification by the executive director, Title 5,  
22           section 17953, subsection 1-B takes effect.

24           **Sec. 10. Contingent repeal.** If 26 Code of Federal Regulations,  
Part 31 is amended in a way that the retirement laws in effect on  
26           December 15, 1991 related to part-time, seasonal or temporary  
employees comply with federal law without requiring the State to  
28           contribute to the United States Social Security System for those  
employees. If such a change in federal law is enacted, the  
30           Executive Director of the Maine State Retirement System shall  
immediately notify the joint standing committee of the  
32           Legislature having jurisdiction over legal and veterans affairs.  
Upon this notification by the executive director, the Maine  
34           Revised Statutes, Title 5, section 17953, subsection 1-A is  
repealed.

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## SUMMARY

40           This bill amends the provisions of the Maine State  
Retirement System to require that all benefits paid on the death  
42           of a participating member are paid to the surviving spouse of  
that member. The spouse of a member may waive this requirement  
44           by filing a waiver with the Board of Trustees of the Maine State  
Retirement System. If the participating member is not married,  
46           then the beneficiary designated by that member receives the  
benefits.