

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 728

H.P. 573

House of Representatives, February 13, 2001

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

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative CARR of Lincoln.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: ANDREWS of York, CLARK of Millinocket, COWGER of Hallowell,
LESSARD of Topsham, MATTHEWS of Winslow, RICHARDSON of Brunswick, ROSEN
of Bucksport, SHERMAN of Hodgdon.

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

2
4 **Sec. 1. 5 MRSA §17951, sub-§2**, as amended by PL 1991, c. 469, §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
10 retirement benefit. Beginning July 1, 1993, for purposes of
12 section 17953, subsection ~~1~~ 1-A, "qualifying member" also means a
member not in service. For purposes of section 17953, subsection
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
further amended to read:

16 A If a qualifying member is not married, that member may
18 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
24 of this article, if the qualifying member is married, the
beneficiary is the qualifying member's spouse.

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

50 B. If the person designated as a beneficiary is the

2 member's spouse, that designation includes all of the
3 member's dependent children so long as the person designated
4 meets the definition of spouse in section 17001, subsection
5 39.

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

12 **3. Waiver by spouse.** The spouse of a qualifying member may
13 wave designation as the sole beneficiary or as a beneficiary by
14 filing a waiver with the board. The waiver must be in writing on
15 forms provided by the board.

16
17 **Sec. 3. 5 MRSA §17953, sub-§1,** as amended by PL 1991, c. 469,
18 §2 and c. 619, §10 and affected by §18, is repealed.

19
20 **Sec. 4. 5 MRSA §17953, sub-§§1-A and 1-B** are enacted to read:

21
22 **1-A. Refund of contributions.** The amount of the qualifying
23 member's accumulated contributions, as determined under section
24 17705, is paid:

25
26 A. To the qualifying member's spouse, if any, unless that
27 spouse has waived designation as a beneficiary pursuant to
28 section 17952, subsection 3;

29
30 B. To the qualifying member's designated beneficiary, if
31 any;

32
33 C. If the qualifying member is not survived by a spouse or
34 other designated beneficiary, to the first listed of the
35 following relatives alive at the time of the qualifying
36 member's death:

37
38 (1) A child or children, regardless of age, sharing
39 equally among themselves; or

40
41 (2) The older parent; or

42
43 D. To the qualifying member's estate.

44
45 **1-B. Refund of contributions.** The amount of the qualifying
46 member's accumulated contributions is paid:

47
48

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 the 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-A, the first listed of the following persons who are
18 living at the time of death of the qualifying member may
19 elect the 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
28 entitled if the member were receiving a monthly benefit
payment.

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

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

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

46 **11. Special options.** Instead of accepting the payment
48 provided in subsection 1 1-A, 2, 5-A or 5-B, a beneficiary may
elect to receive benefits under section 17852, subsection 4,
50 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.

4
6 B. If an election is not made under this subsection,
benefits payable under this section are in lieu of any
8 benefits payable under section 17852, subsection 4,
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, the Executive Director of the Maine State Retirement
30 System shall immediately notify the joint standing committee of
the Legislature having jurisdiction over legal and veterans
32 affairs. Upon this notification by the executive director, the
Maine Revised Statutes, Title 5, section 17953, subsection 1-A is
34 repealed.

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SUMMARY

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