

MAINE STATE LEGISLATURE

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L.D. 1850

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LABOR

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1290, L.D. 1850, Bill, "An Act To Clarify the Change of Beneficiary Provision in the Maine State Retirement System Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §17054, sub-§4, as enacted by PL 1991, c. 746, §8 and affected by §10, is amended to read:

4. **Qualified domestic relations order.** The rights of a member ~~or, retiree, beneficiary or other payee~~ under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059.

Sec. 2. 5 MRSA §17059, sub-§6, ¶A, as enacted by PL 1991, c. 746, §9 and affected by §10, is amended to read:

A. If the order is determined to be a qualified domestic relations order, the it is presumed to be in compliance with all requirements of this Part. The retirement system shall pay benefits in accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant

2 or beneficiary or the retirement system, notwithstanding any
3 provision of law to the contrary or any policy or procedure
4 the retirement system employs in the implementation of this
5 Part.

6 **Sec. 3. 5 MRSA §17805-A, sub-§1**, as amended by PL 2001, c.
7 118, §7, is further amended to read:

8
9 **1. Election of benefit for different beneficiary.** The
10 recipient may elect to have the reduced retirement benefit paid
11 under the same option to a different beneficiary except when the
12 former spouse is named as retirement beneficiary at the time the
13 divorce is granted, in which case the election may be made only
14 under the following conditions:

15 A. The spouse or former spouse who was originally named as
16 retirement beneficiary must have been the sole beneficiary
17 of the reduced retirement benefit under section 17804,
18 subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

19 B. The recipient and the spouse or former spouse who was
20 originally named retirement beneficiary must agree to the
21 change of beneficiary. Prior to this agreement, the
22 executive director shall ensure that the spouse or former
23 spouse who was originally named as retirement beneficiary
24 has been counseled by an employee of the retirement system
25 regarding the financial effect of giving up rights as a
26 beneficiary and has signed a statement that the information
27 has been received and understood.

28
29 **Sec. 4. 5 MRSA §18405-A, sub-§1**, as amended by PL 2001, c.
30 118, §11, is further amended to read:

31
32 **1. Election of benefit for different beneficiary.** The
33 recipient may elect to have the reduced retirement benefit paid
34 under the same option to a different beneficiary except when the
35 former spouse is named as retirement beneficiary at the time the
36 divorce is granted, in which case the election may be made only
37 under the following conditions:

38 A. The spouse or former spouse who was originally named as
39 retirement beneficiary must have been the sole beneficiary
40 of the reduced retirement benefit under section 18404,
41 subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and

42 B. The recipient and the spouse or former spouse who was
43 originally named retirement beneficiary must agree to the
44 change of beneficiary. Prior to this agreement, the
45 executive director shall ensure that the spouse or former
46 spouse who was originally named as retirement beneficiary
47 has been counseled by an employee of the retirement system

2 regarding the financial effect of giving up rights as a
beneficiary and has signed a statement that the information
4 has been received and understood.

6 **Sec. 5. Retroactivity.** Those sections of this Act that amend
the Maine Revised Statutes, Title 5, section 17054, subsection 4
and Title 5, section 17059, subsection 6, paragraph A apply
8 retroactively to January 1, 1985.'

10 **SUMMARY**

12 This amendment strikes and replaces the bill.

14 In order to clarify that the terms of qualified domestic
16 relations orders must be followed in implementing the laws
governing the Maine State Retirement System, this amendment
18 specifies that the rights of a beneficiary or other payee under
the laws governing the Maine State Retirement System are subject
20 to the terms of a qualified domestic relations order, provides
that a qualified domestic relations order is presumed to be in
22 compliance with all applicable requirements and directs the Maine
State Retirement System to give effect to the plain meaning of
24 the terms of such an order despite any failure of the order to
cite or reference statutory or rule provisions. The amendment
26 makes these changes retroactive to January 1, 1985.

28 The amendment also amends 2 statutory sections contained in
the bill to make the limitations on the ability of a retiree
30 under the Maine State Retirement System to change the beneficiary
of that person in the case of a divorce apply only when the
32 former spouse is named as retirement beneficiary at the time the
divorce is granted.