City of Revere, Massachusetts

City Hall
281 Broadway
Revere, MA 02151
781-286-8160

Anthony Saverio Cogliandro
Ward Three Councillor

Office of the City Council

To: **The Honorable Members of the Revere City Council**
From: **Marc Silvestri, Chairman**
Ways & Means Sub-Committee
Re: **Committee Meeting**
Date: **October 29, 2025**

Please be advised that the Ways & Means Sub-Committee will hold a meeting on **Monday evening, November 24, 2025 from 5:00PM-5:30PM** in the City Councillor Joseph A. DelGrosso City Council Chamber, Revere City Hall, 281 Broadway, Revere, MA 02151 for the purpose of discussing the following Council Order(s):

24-257 Communication from the Chief of Planning & Community Development relevant to a proposed special act to support the family of Robert O'Brien.

25-107 Motion presented by Councillor Guarino-Sawaya: That Mayor request the Department of Public Works to install appropriate signage and/or blinking lights ahead of all speed bumps to provide sufficient warning to drivers and improve roadway safety. Furthermore, that the Traffic Commission and Department of Public Works conduct a review of all existing speed bump locations to ensure proper signage is in place and report back to the City Council with its recommendations.

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. **Division of Administrative Law Appeals**

Annette O'Brien,
Petitioner

v.

Docket No. CR-24-0266
Date: Feb. 7, 2025

Revere Retirement System,
Respondent

Appearance for Petitioner:

Paul O'Brien, Esq.
164 Dyckman Place
Basking Ridge, NJ 07920

Appearance for Respondent:

Timothy J. Smyth, Esq.
168 H Street, Suite #1
South Boston, MA 02127

Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF DECISION

While employed by the City of Revere, decedent Robert O'Brien designated his wife, Annette O'Brien, as his Option D beneficiary. Mr. O'Brien died after he resigned his position, but before retiring. Mrs. O'Brien requested that the City of Revere Retirement System allow her to waive the Option D allowance and instead return Mr. O'Brien's retirement contributions to her in a lump sum. Mrs. O'Brien is entitled to only an Option D allowance; the Board is not permitted to return Mr. O'Brien's deductions.

DECISION

On February 19, 2024, Robert O'Brien died. His wife, Annette, requested that the Revere Retirement Board pay her Mr. O'Brien's total accumulated retirement deductions in one lump sum. On April 10, 2024, Revere denied her request and informed her that it must pay her the Option D allowance that her late husband had designated for her, even though, in her case, receiving a lump sum "may make better financial sense." On April 18, 2024, Ms. O'Brien appealed the Board's decision.

On April 24, 2024, DALA informed the parties that Ms. O'Brien's appeal appeared to be one that could be resolved on written submissions under 801 CMR 1.01(10)(c) and ordered them to submit legal memoranda and proposed exhibits. Neither party objected to the magistrate's order. On July 12, 2024, Ms. O'Brien submitted her memorandum. She did not submit any proposed exhibits. On August 19, 2024, the Board submitted its memorandum and two proposed exhibits, which I now enter into evidence as marked. (Exs. A, B.) I have entered Ms. O'Brien's appeal letter as Exhibit C. On August 20, 2024, Ms. O'Brien submitted a reply memorandum.

FINDINGS OF FACT

Based on the documents presented by the parties, I make the following findings of fact:

1. Between August 18, 2016 and December 31, 2023, Robert O'Brien was employed by the City of Rever as its Economic Development Director. He was a member of the Revere Retirement System. (Ex. A.)

2. Mr. O'Brien married Annette O'Brien on September 18, 1965. At the time of his death, they were living together. (Ex. A.)

3. On September 19, 2018, Mr. O'Brien signed a valid Beneficiary Selection Form, which designated Mrs. O'Brien as his beneficiary under G.L. c. 32, § 11(2). On the reverse of the form, he listed her as his Option D beneficiary. The Option D portion

of the form states Mrs. O'Brien would be entitled to "a benefit equal to the Option (C) retirement allowance which would otherwise have been payable to me in the event I die before retired." (Ex. A.)

4. On December 31, 2023, Mr. O'Brien voluntarily resigned his position with the City of Revere. (Stipulation.)

5. Over the period of his employment with the City of Revere, Mr. O'Brien made retirement contributions of $79,724.03 to Revere. He accrued 6.4167 years of creditable service with the Board. (Ex. A.)

6. On February 19, 2024, Mr. O'Brien died. He did not apply to retire or withdraw his contributions from the retirement system before he died. This combination of factors made him a member inactive on the date of his death. *See* G.L. c. 32, § 3(1)(ii). (Stipulation.)

7. On April 10, 2024, the Board notified Ms. O'Brien that she had been designated Mr. O'Brien's Option D beneficiary and that consequently she was entitled to a monthly Option D allowance of $81.76 per month. (Ex. B.)

8. On April 18, 2024, Ms. O'Brien appealed the Board's decision. (Ex. C.)

9. After a series of emails and video calls, on May 16, 2024 the Board sought an advisory opinion from the Public Employee Retirement Administration Commission (PERAC) on whether the Board had the authority to distribute Mr. O'Brien's accumulated total deductions to Ms. O'Brien rather than paying her an Option D allowance. (Ex. B.)

10. PERAC responded on May 17, 2024. It declined to issue a formal opinion on the matter because of the pending appeal at DALA. However, PERAC attached a

similar opinion letter dated February 9, 2023, that addressed what happens in certain circumstances when a member inactive dies before retiring. PERAC opined: "If there are no eligible beneficiaries, then the refund of the accumulated total deductions would be paid to the spouse. If the spouse was a nominated Option D beneficiary, then they must take the Option D allowance." (Ex. B.)

CONCLUSION AND ORDER

The dispute in this appeal is over whether a surviving spouse who has been designated an Option D beneficiary under G.L. c. 32, § 12(2)(d) is forced to take the Option D allowance, as opposed to a refund of the deceased retirement system member's annuity savings account, when the member has stopped working but has died before retiring.

The relevant law can be a bit convoluted. Under G.L. c. 32, § 11(2)(c), a member may designate a beneficiary to receive a return of his accumulated annuity savings deductions in his annuity savings account should he die before retiring. The beneficiary designation is required to have been made in writing on a designated form filed with the retirement board prior to the member's death. Upon the death of the member prior to retirement, the beneficiaries designated under § 11(2)(c) receive the member's accumulated annuity savings deductions plus interest, unless the member had designated an eligible § 12(2) Option D beneficiary or a surviving spouse exercises his or her rights under Option D.

Under G.L. c. 32, § 12(2), at any time prior to death, a member may designate an eligible beneficiary as his Option D beneficiary. This designation must also be in writing, on a designated form, and filed with the retirement board prior to the member's death. There is no dispute that Mr. O'Brien designated his wife as his Option D beneficiary. The member may change or cancel the beneficiary designation at any time prior to death. There is also no dispute that Mr. O'Brien did not change or cancel his Option D beneficiary designation before he died. Under § 12(2)(d), upon the death of the member "before being retired," the Option D beneficiary receives the amount that the member would have received under Option C if the member had retired on the date of his death. There is no dispute that Mr. O'Brien died without retiring. Reading these provisions together yields the following result. Because Mr. O'Brien designated his wife as his Option D beneficiary and he stopped working and then died before he retired, the retirement board must pay an Option D allowance to Mrs. O'Brien.

Mrs. O'Brien argues that when Mr. O'Brien resigned from his position with the City of Revere on December 31, 2023, the Option D beneficiary designation became null and void and consequently his contributions should be paid out to his estate. Option D is only effective, she argues, while the member is still working his government job and is consequently a member in service. G.L. c. 32, § 3(1)(i). Because he left his contributions on account with the retirement system, Mr. O'Brien maintained his membership in the system, but as a member inactive.[1]

Mrs. O'Brien does not cite any statute or regulation in support of her argument. She relies only on "common sense" and a page of the State Board of Retirement website that states that Option D "is only activated in the event the member dies while still

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1 G.L. c. 32, § 3(1)(ii) includes as members inactive "any member in service whose employment has been terminated and who may be entitled to any present or potential retirement allowance or to a return of his accumulated total deductions under the provisions of sections one to twenty-eight inclusive."

employed for the Commonwealth (active service)."[2] Now, based on Mr. O'Brien's reliance on the State Board of Retirement website, she effectively argues that the Revere Board should be estopped from denying her request for a refund and an equitable remedy be fashioned by DALA. Neither the board nor this tribunal can grant such requests. DALA must follow only the law in deciding appeals. "Equitable considerations and the doctrine of estoppel do not alter the entitlements that an administrative agency must distribute under an unambiguous statute. The amount of the benefits is governed entirely by G.L. c. 32, and as such may not be enlarged by a [government employee's] error." *Leto v. State Bd. of Retirement*, CR-19-554, at *3 (DALA Nov. 19, 2021) (citations omitted).

Mrs. O'Brien alternatively contends that Mr. O'Brien's resignation from his position on December 31, 2023, was the same as retiring. This argument makes some colloquial sense, as Mr. O'Brien left his job at age 81. He retired from that job in the sense that he left it at an advanced age. But, he did not apply for a retirement benefit or ask for a return of his accumulated deductions. For purposes of the retirement law, he merely left his job; he did not retire. Chapter 32 draws precise distinctions between resigning and retiring. *See* G.L. c. 32, § 10(1) and (3) (if a member stops working and does not file for retirement within 60 days, he is entitled to a deferred retirement). DALA's decisions reflect this distinction: resignation does not equal retirement. *See*,

[2] This advice is incorrect and should be changed as soon as practicable. The relevant portions of section 12 refer to "members," not active members or members in service. G.L. c. 32, § 12(2). Section 12 refers to members in service only twice. Neither occasion is relevant to this case. The first allows the spouse of a member in service to select Option D if no beneficiary was named at the member's death, and the second provides a minimum allowance if the member was in service at the date of his death. *Id.*

e.g., McDonough v. Quincy Ret. Bd., CR-06-1034 (DALA March 12, 2008), *rev'd* on other grounds (CRAB Nov. 3, 2009). This makes sense because a member who is still working and a member who has resigned are in the same position relative to benefits. Neither is collecting a benefit. Both merely have their accumulated contributions on account with the retirement system. It is reasonable to conclude that in drawing the line at retirement, and not resignation, the legislature wanted to protect members' ability to designate a beneficiary and thus leave a life-long benefit for the beneficiary; this policy goal requires treating active members and members who have resigned, but not yet retired, the same for purposes of Option D.

Finally, Ms. O'Brien urges that if her Option D beneficiary designation is effective, as I have ruled, she be allowed to waive her Option D allowance so that Mr. O'Brien's contributions can be paid out to his estate. Unfortunately for her, there are no exceptions in the statute that would allow her to waive the allowance and instead ask that her late husband's retirement contributions be paid out to her instead of the Option D allowance. Mr. O'Brien designated Petitioner as his sole beneficiary to receive his accumulated total deductions in the event of his death (Option C) on the same form he designated her as his Option D beneficiary. The statute is clear, however, that "payment shall not be made under [§ 11(2)(c)] if the deceased member is survived by a beneficiary appointed under option (d) of subdivision (2) of section 12 who is eligible to receive the allowance provided by said option." G.L. c. 32, § 11(2)(c); *see Harrington v. Mass. Teacher's Ret. Sys.*, CR-13-376 (DALA Feb. 7, 2014) (an effective Option D beneficiary designation prevents a lump sum payment being made under § 11(2)(c)). Nothing prevents Ms. O'Brien's eligibility for an Option D allowance.

I admit that the application of the law in this appeal has had an anomalous result. Ms. O'Brien, an 81-year-old woman, is being forced to collect an extremely small Option D retirement allowance, when all good sense tells us that this would not be the result that her late husband intended. To the extent that he thought about it, it is likely he thought that his Option D allowance was null and void. Since he was not an attorney, he turned to the commonwealth's website for guidance. After all, the contributory retirement law is "notoriously complex." *Murphy v. Contributory Ret. Appeal Bd.*, 463 Mass. 333, 345 (2012) (citing *Namay v. Contributory Ret. Appeal Bd.*, 19 Mass. App. Ct. 456, 463 (1985)). Unfortunately, that guidance was incorrect. Therefore, I encourage Ms. O'Brien to seek special legislation permitting her to waive her allowance and collect her husband's remaining total accumulated deductions. The Revere Board does not oppose this relief, and PERAC has already offered its assistance in pursuing this option.

For the reasons stated above, the Revere Retirement Board's decision is AFFIRMED.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: Feb. 7, 2025

OFFERED BY Division of Administrative Law Appeals

DECISION

O'Brien v. Revere Ret. Sys., CR-24-0266

DATE:	02/07/2025
ORGANIZATION:	Division of Administrative Law Appeals
DOCKET NUMBER:	CR-24-0266

Petitioner: Annette O'Brien

Respondent: Revere Retirement System

Appearance for Petitioner: Paul O'Brien, Esq.

Appearance for Respondent: Timothy J. Smyth, Esq.

Administrative Magistrate: Kenneth J. Forton

Summary of Decision

While employed by the City of Revere, decedent Robert O'Brien designated his wife, Annette O'Brien, as his Option D beneficiary. Mr. O'Brien died after he resigned his position, but before retiring. Mrs. O'Brien requested that the City of Revere Retirement System allow her to waive the Option D allowance and instead return Mr. O'Brien's retirement contributions to her in a lump sum. Mrs. O'Brien is entitled to only an Option D allowance; the Board is not permitted to return Mr. O'Brien's deductions.

Decision

On February 19, 2024, Robert O'Brien died. His wife, Annette, requested that the Revere Retirement Board pay her Mr. O'Brien's total accumulated retirement deductions in one lump sum. On April 10, 2024, Revere denied her request and informed her that it must pay her the Option D allowance that her late husband had designated for her, even though, in her case, receiving a lump sum "may make better financial sense." On April 18, 2024, Ms. O'Brien appealed the Board's decision.

On April 24, 2024, DALA informed the parties that Ms. O'Brien's appeal appeared to be one that could be resolved on written submissions under 801 CMR 1.01(10)(c) and ordered them to submit legal memoranda and proposed exhibits. Neither party objected to the magistrate's order. On July 12, 2024, Ms. O'Brien submitted her memorandum. She did not submit any proposed exhibits. On August 19, 2024, the Board submitted its memorandum and two proposed exhibits, which I now enter into evidence as marked. (Exs. A, B.) I have entered Ms. O'Brien's appeal letter as Exhibit C. On August 20, 2024, Ms. O'Brien submitted a reply memorandum.

FINDINGS OF FACT

Based on the documents presented by the parties, I make the following findings of

fact:

1. Between August 18, 2016 and December 31, 2023, Robert O'Brien was employed by the City of Rever as its Economic Development Director. He was a member of the Revere Retirement System. (Ex. A.)
2. Mr. O'Brien married Annette O'Brien on September 18, 1965. At the time of his death, they were living together. (Ex. A.)
3. On September 19, 2018, Mr. O'Brien signed a valid Beneficiary Selection Form, which designated Mrs. O'Brien as his beneficiary under G.L. c. 32, § 11(2). On the reverse of the form, he listed her as his Option D beneficiary. The Option D portion of the form states Mrs. O'Brien would be entitled to "a benefit equal to the Option (C) retirement allowance which would otherwise have been payable to me in the event I die before retired." (Ex. A.)
4. On December 31, 2023, Mr. O'Brien voluntarily resigned his position with the City of Revere. (Stipulation.)
5. Over the period of his employment with the City of Revere, Mr. O'Brien made retirement contributions of $79,724.03 to Revere. He accrued 6.4167 years of creditable service with the Board. (Ex. A.)
6. On February 19, 2024, Mr. O'Brien died. He did not apply to retire or withdraw his contributions from the retirement system before he died. This combination

of factors made him a member inactive on the date of his death. *See* G.L. c. 32, § 3(1)(ii). (Stipulation.)

7. On April 10, 2024, the Board notified Ms. O'Brien that she had been designated Mr. O'Brien's Option D beneficiary and that consequently she was entitled to a monthly Option D allowance of $81.76 per month. (Ex. B.)
8. On April 18, 2024, Ms. O'Brien appealed the Board's decision. (Ex. C.)
9. After a series of emails and video calls, on May 16, 2024 the Board sought an advisory opinion from the Public Employee Retirement Administration Commission (PERAC) on whether the Board had the authority to distribute Mr. O'Brien's accumulated total deductions to Ms. O'Brien rather than paying her an Option D allowance. (Ex. B.)
10. PERAC responded on May 17, 2024. It declined to issue a formal opinion on the matter because of the pending appeal at DALA. However, PERAC attached a similar opinion letter dated February 9, 2023, that addressed what happens in certain circumstances when a member inactive dies before retiring. PERAC opined: "If there are no eligible beneficiaries, then the refund of the accumulated total deductions would be paid to the spouse. If the spouse was a nominated Option D beneficiary, then they must take the Option D allowance." (Ex. B.)

Conclusion

The dispute in this appeal is over whether a surviving spouse who has been designated an Option D beneficiary under G.L. c. 32, § 12(2)(d) is forced to take the Option D allowance, as opposed to a refund of the deceased retirement system member's annuity savings account, when the member has stopped working but has died before retiring.

The relevant law can be a bit convoluted. Under G.L. c. 32, § 11(2)(c), a member may designate a beneficiary to receive a return of his accumulated annuity savings deductions in his annuity savings account should he die before retiring. The beneficiary designation is required to have been made in writing on a designated form filed with the retirement board prior to the member's death. Upon the death of the member prior to retirement, the beneficiaries designated under § 11(2)(c) receive the member's accumulated annuity savings deductions plus interest, unless the member had designated an eligible § 12(2) Option D beneficiary or a surviving spouse exercises his or her rights under Option D.

Under G.L. c. 32, § 12(2), at any time prior to death, a member may designate an eligible beneficiary as his Option D beneficiary. This designation must also be in writing, on a designated form, and filed with the retirement board prior to the member's death. There is no dispute that Mr. O'Brien designated his wife as his Option D beneficiary. The member may change or cancel the beneficiary designation at any time prior to death. There is also no dispute that Mr. O'Brien did not change or cancel his Option D beneficiary designation before he died. Under § 12(2)(d), upon the death of the member "before being retired," the Option D beneficiary receives the amount that the member would have received under Option C if the member had retired on the date of his death. There is no dispute that Mr. O'Brien died without retiring. Reading these provisions together yields the following result. Because Mr. O'Brien designated his wife as his Option D beneficiary and he stopped working and then died before he retired, the retirement board must pay an Option D allowance to Mrs. O'Brien.

Mrs. O'Brien argues that when Mr. O'Brien resigned from his position with the City of Revere on December 31, 2023, the Option D beneficiary designation became null and void and consequently his contributions should be paid out to his estate. Option D is only effective, she argues, while the member is still working his government job and is consequently a member in service. G.L. c. 32, § 3(1)(i). Because he left his contributions on account with the retirement system, Mr. O'Brien maintained his membership in the system, but as a member inactive.**[1]**

Mrs. O'Brien does not cite any statute or regulation in support of her argument. She relies only on "common sense" and a page of the State Board of Retirement website that states that Option D "is only activated in the event the member dies while still employed for the Commonwealth (active service)."**[2]** Now, based on Mr.

O'Brien's reliance on the State Board of Retirement website, she effectively argues that the Revere Board should be estopped from denying her request for a refund and an equitable remedy be fashioned by DALA. Neither the board nor this tribunal can grant such requests. DALA must follow only the law in deciding appeals. "Equitable considerations and the doctrine of estoppel do not alter the entitlements that an administrative agency must distribute under an unambiguous statute. The amount of the benefits is governed entirely by G.L. c. 32, and as such may not be enlarged by a [government employee's] error." *Leto v. State Bd. of Retirement*, CR-19-554, at *3 (DALA Nov. 19, 2021) (citations omitted).

Mrs. O'Brien alternatively contends that Mr. O'Brien's resignation from his position on December 31, 2023, was the same as retiring. This argument makes some colloquial sense, as Mr. O'Brien left his job at age 81. He retired from that job in the sense that he left it at an advanced age. But, he did not apply for a retirement benefit or ask for a return of his accumulated deductions. For purposes of the retirement law, he merely left his job; he did not retire. Chapter 32 draws precise distinctions between resigning and retiring. *See* G.L. c. 32, § 10(1) and (3) (if a member stops working and does not file for retirement within 60 days, he is entitled to a deferred retirement). DALA's decisions reflect this distinction: resignation does not equal retirement. *See, e.g., McDonough v. Quincy Ret. Bd.*, CR-06-1034 (DALA March 12, 2008), *rev'd* on other grounds (CRAB Nov. 3, 2009). This makes sense because a member who is still working and a member who has resigned are in the same position relative to benefits. Neither is collecting a benefit. Both merely have their accumulated contributions on account with the retirement system. It is reasonable to conclude that in drawing the line at retirement, and not resignation, the legislature wanted to protect members' ability to designate a beneficiary and thus leave a life-long benefit for the beneficiary; this policy goal requires treating active members and members who have resigned, but not yet retired, the same for purposes of Option D.

Finally, Ms. O'Brien urges that if her Option D beneficiary designation is effective, as I have ruled, she be allowed to waive her Option D allowance so that Mr. O'Brien's contributions can be paid out to his estate. Unfortunately for her, there are no exceptions in the statute that would allow her to waive the allowance and instead ask that her late husband's retirement contributions be paid out to her instead of the Option D allowance. Mr. O'Brien designated Petitioner as his sole beneficiary to receive his accumulated total deductions in the event of his death (Option C) on the same form he designated her as his Option D beneficiary. The statute is clear, however, that "payment shall not be made under [§ 11(2)(c)] if the deceased member is survived by a beneficiary appointed under option (d) of subdivision (2) of section 12 who is eligible to receive the allowance provided by said option." G.L. c. 32, § 11(2)(c); *see Harrington v. Mass. Teacher's Ret. Sys.*, CR-13-376 (DALA Feb. 7, 2014) (an effective Option D beneficiary designation prevents a lump sum payment being made under § 11(2)(c)). Nothing prevents Ms. O'Brien's eligibility for an Option D allowance.

I admit that the application of the law in this appeal has had an anomalous result. Ms. O'Brien, an 81-year-old woman, is being forced to collect an extremely small Option D retirement allowance, when all good sense tells us that this would not be the result that her late husband intended. To the extent that he thought about it, it is likely he thought that his Option D allowance was null and void. Since he was not an attorney, he turned to the commonwealth's website for guidance. After all, the contributory retirement law is "notoriously complex." *Murphy v. Contributory Ret. Appeal Bd.*, 463 Mass. 333, 345 (2012) (citing *Namay v. Contributory Ret. Appeal Bd.*, 19 Mass. App. Ct. 456, 463 (1985)). Unfortunately, that guidance was incorrect. Therefore, I encourage Ms. O'Brien to seek special legislation permitting her to waive her allowance and collect her husband's remaining total accumulated deductions. The Revere Board does not oppose this relief, and PERAC has already offered its assistance in pursuing this option.

For the reasons stated above, the Revere Retirement Board's decision is AFFIRMED.

SO ORDERED.

Division of Administrative Law Appeals

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: Feb. 7, 2025

Downloads

O’Brien v. Revere Ret. Sys., CR-24-0266
(https://www.mass.gov/doc/obrien-v-revere-ret-sys-cr-24-0266/download)
(English, PDF 202.1 KB)

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[1] G.L. c. 32, § 3(1)(ii) includes as members inactive “any member in service whose employment has been terminated and who may be entitled to any present or potential retirement allowance or to a return of his accumulated total deductions under the provisions of sections one to twenty-eight inclusive.”

[2] This advice is incorrect and should be changed as soon as practicable. The relevant portions of section 12 refer to “members,” not active members or members in service. G.L. c. 32, § 12(2). Section 12 refers to members in service only twice. Neither occasion is relevant to this case. The first allows the spouse of a member in service to select Option D if no beneficiary was named at the member’s death, and the second provides a minimum allowance if the member was in service at the date of his death. *Id.*

City of Revere, Massachusetts

Tom Skwierawski
Chief of Planning and Community Development
Department of Planning and Community Development
281 Broadway, Revere, MA 02151 781. 286. 8181

Patrick M. Keefe Jr.
Mayor

TO: The Honorable Revere City Council

FR: Tom Skwierawski, Chief of Planning and Community Development

CC: Office of Mayor Patrick M. Keefe, Jr.
RE: **Home Rule Petition re: Special Act to support the family of Robert O'Brien**

DA: August 21, 2024

Esteemed Members:

I submit for your considering the following legislation:

> **AN ACT EXEMPTING ANNETTE V. O'BRIEN FROM BEING AWARDED A MEMBER-SURVIVOR ALLOWANCE AS SET FORTH IN CHAPTER 32, SECTION 12(2)(d)) OF THE GENERAL LAWS AND INSTEAD RECEIVE A ONE-TIME, LUMP SUM PAYMENT OF THE ACCUMULATED TOTAL DEDUCTION ACCOUNT OF ROBERT B. O'BRIEN ON FILE WITH THE REVERE CONTRIBUTORY RETIREMENT SYSTEM.**

This legislation ensures that the spouse of the late Economic Development Director Robert (Bob) O'Brien receives the full retirement benefits afforded to Bob. Bob officially retired from the City at the end of 2023, and tragically passed away just weeks later. Bob's wife, Anette, is scheduled to receive nominal monthly benefits from the Revere Contributory Retirement System. Due to her age, this will likely amount to a number far less than the funding Bob contributed to the System.

Bob was a great man, and a mentor to me and many others in this building. He helped usher forward some of the most significant changes in the City's history, including the Suffolk Downs Master Plan and the revitalization of Revere Beach. Due to the untimeliness of his passing, the City wants to make every effort to ensure the support and comfort of his loved ones at this time. If you have any questions, please do not hesitate to ask.

ARTICLE

To see if the City will vote to authorize the City Council to petition the General Court for special legislation providing that Annette O'Brien, widow of Robert B. O'Brien, be exempt from the specific clause of Chapter 32, section 11(2)(c) of the General Laws that provides in pertinent part:

> *. . . **Payment shall not be made under this subdivision if the deceased member is survived by a beneficiary appointed under option (d) of subdivision (2) of section twelve who is eligible to receive the allowance provided by said option**, nor if the deceased member is a male and is survived by a person eligible to receive the allowance provided for in section twelve B, or is a female and is survived by a child eligible to receive the allowances provided for in section twelve B, unless the widow or person acting for such child elects, in lieu of receiving allowances provided for in said section twelve B, to have payment of any moneys due made in accordance with the provisions of this paragraph."*

(emphasis added).

Provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the City Council approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition, and to authorize the City Council to approve such amendments set forth below:

PROPOSED SPECIAL ACT

AN ACT EXEMPTING ANNETTE V. O'BRIEN FROM BEING AWARDED A MEMBER-SURVIVOR ALLOWANCE AS SET FORTH IN CHAPTER 32, SECTION 12(2)(d)) OF THE GENERAL LAWS AND INSTEAD RECEIVE A ONE-TIME, LUMP SUM PAYMENT OF THE ACCUMULATED TOTAL DEDUCTION ACCOUNT OF ROBERT B. O'BRIEN ON FILE WITH THE REVERE CONTRIBUTORY RETIREMENT SYSTEM.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same as follows:

WHEREAS, Robert B. O'Brien was employed as the City of Revere's Economic Development Director between August 18, 2016, and December 31,

2023. During his employment with the City of Revere, Robert B. O'Brien accrued 6.4167 years of creditable service with the Revere Contributory Retirement System and contributed approximately $79,724.03 into said Retirement System.

WHEREAS, while a member-in-service, Mr. O'Brien nominated Annette V. O'Brien as his member-survivor beneficiary pursuant to Chapter 32, section 12(2)(d) of the General Laws. That designation was never revoked by Robert B. O'Brien and remained on file at the Revere Contributory Retirement System until his death on February 19, 2024.

WHEREAS, staff at the Revere Contributory Retirement System have calculated Annette V. O'Brien gross monthly benefit to be $81.76.

WHEREAS, Annette V. O'Brien is currently 81 years old.

SECTION 1. Notwithstanding the provisions of Chapter 32, section 11(2)(c) of the General Laws pertaining to the mandatory receipt of a member-survivor allowance when an eligible beneficiary has been nominated by a now deceased member, Annette V. O'Brien shall be issued a one-time, lump sum payment of monies paid into the Revere Contributory Retirement System by Robert B. O'Brien plus the statutory interest consistent with the other terms and conditions set forth in Chapter 32, section 11 of the General Laws.

SECTION 2. Once refunded, Annette V. O'Brien shall not be eligible for any additional benefits or payments by the City of Revere or the Revere Contributory Retirement System relative to Robert B. O'Brien's membership with the Revere Contributory Retirement System.

SECTION 3. This act shall take effect upon its passage.

END.