

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2308 Session of
2014

INTRODUCED BY SANTARSIERO, O'BRIEN, MCGEEHAN, CALTAGIRONE,
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KIM, GILLEN, STURLA, McNEILL AND QUINN, JULY 30, 2014

REFERRED TO COMMITTEE ON FINANCE, JULY 30, 2014

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, in membership,
3 contributions and benefits, further providing for member's
4 options, for death benefits and for payment of benefits; in
5 administration and miscellaneous provisions, further
6 providing for duties of board regarding applications and
7 elections of members and for rights and duties of school
8 employees and members; in benefits, further providing for
9 member's options, for death benefits and for payment of
10 benefits; and, in administration, funds, accounts, general
11 provisions, further providing for duties of board regarding
12 applications and elections of members and for rights and
13 duties of State employees and members.

14 The General Assembly finds and declares as follows:

15 (1) Spouses of State and municipal employees in this
16 Commonwealth should be protected from impoverishment as a
17 result of the death of their spouses, consistent with the
18 Commonwealth's treatment of marital property and the
19 protections afforded spouses of private company employees.

20 (2) The law in this Commonwealth currently recognizes a
21 spouse's marital property interest in a State or public
22 school employee's accrued pension benefits upon divorce, but

1 does not provide adequate protection to the nonemployee
2 spouse in the event of the employee's death.

3 (3) Research indicates that women are less likely to
4 have a pension than men. To the extent women have a pension,
5 they typically receive a lower payout, because women have
6 historically earned less than men and, as primary caregivers,
7 have less consistent work records than men.

8 (4) Older women are more likely than older men to
9 experience the loss of a spouse and, with such loss, a severe
10 reduction of income and threat of poverty during widowhood.

11 (5) To address such disparities, Congress adopted the
12 Retirement Equity Act of 1984 (Public Law 98-397, 98 Stat.
13 1426) to require all privately sponsored pension plans to
14 make benefit payments in the form of a preretirement survivor
15 annuity in the event of the employee's death during
16 employment and a joint and survivor annuity upon retirement,
17 each with a minimum 50% annuity payable to the surviving
18 spouse upon the death of the employee or pensioner unless the
19 surviving spouse consents to another form of benefit payment.

20 (6) While the majority of the states have adopted laws
21 providing surviving spouses with protections similar to those
22 imposed by Federal law, the Commonwealth has not provided
23 such protection.

24 (7) The purpose of this provision is to provide greater
25 economic security to surviving spouses of public employees in
26 this Commonwealth while being revenue neutral with regard to
27 the State budget.

28 The General Assembly of the Commonwealth of Pennsylvania
29 hereby enacts as follows:

30 Section 1. Section 8345 of Title 24 of the Pennsylvania

1 Consolidated Statutes is amended by adding a subsection to read:

2 § 8345. Member's options.

3 * * *

4 (c) Spouse must consent to election.--Any eligible member's
5 election under this section that does not provide for at least
6 50% survivor annuity to such member's surviving spouse shall not
7 take effect unless:

8 (1) (i) the spouse of the eligible member consents in
9 writing to such election;

10 (ii) such election designates a beneficiary or form
11 of benefits that may not be changed without spousal
12 consent or the consent of such spouse expressly permits
13 designations by the member without any requirement of
14 further consent by the spouse; and

15 (iii) the spouse's consent acknowledges the effect
16 of such election and is witnessed by a member of the
17 board or a notary public; or

18 (2) it is established to the satisfaction of the board
19 that the consent required under paragraph (1) may not be
20 obtained because there is no spouse or because the spouse
21 cannot be located.

22 Any consent by a spouse or establishment that the consent of a
23 spouse may not be obtained under paragraph (2) shall be
24 effective only with respect to such spouse.

25 Section 2. Section 8347(a), 8349(c) and 8505(h) of Title 24
26 are amended to read:

27 § 8347. Death benefits.

28 (a) Members eligible for annuities.--Any member or former
29 member on USERRA leave, other than an annuitant, who dies and
30 was eligible for an annuity in accordance with section 8307(a)

1 or (b) (relating to eligibility for annuities) shall be
2 considered as having applied for an annuity to become effective
3 the day before his death; and, in the event he has not elected
4 an option, it shall be assumed that he elected Option 1 and
5 assigned as beneficiary [that person last designated in writing
6 to the board.] his spouse unless a contrary beneficiary
7 designation meeting the requirements of this chapter has been
8 provided in writing to the board. If such member is unmarried
9 and has not designated a beneficiary under this chapter, it
10 shall be assumed that he elected Option 1 and assigned his
11 estate as his beneficiary.

12 * * *

13 § 8349. Payment of benefits.

14 * * *

15 (c) Death or absence of beneficiary.--If the beneficiary
16 designated by a member should predecease him or die within 30
17 days of his death, or if a valid nomination of a beneficiary is
18 not in effect at his death, any money payable to a beneficiary
19 shall be [paid to the estate of the member] payable first to his
20 surviving spouse and, if there is no spouse, then to his estate.

21 § 8505. Duties of board regarding applications and elections of
22 members.

23 * * *

24 (h) Death benefits.--Upon receipt of notification of the
25 death of a member or former member on USERRA leave, the board
26 shall notify the designated beneficiary or survivor annuitant of
27 the benefits to which he is entitled and shall make the first
28 payment to the beneficiary under the plan elected by the
29 beneficiary within 60 days of receipt of certification of death
30 and other necessary data. If no beneficiary designation is in

1 effect at the date of the member's death [or no notice has been
2 filed with the board to pay the amount of such benefits to the
3 member's estate], the member's designated beneficiary shall be
4 deemed to be his surviving spouse. If such member did not
5 designate a beneficiary and was unmarried at the time of his
6 death, the board is authorized to pay such benefits to the
7 executor, administrator[, surviving spouse] or next-of-kin of
8 the deceased member, and payment pursuant hereto shall fully
9 discharge the fund from any further liability to make payment of
10 such benefits to any other person. If the surviving spouse,
11 designated beneficiary or next-of-kin of the deceased member
12 cannot be found for the purpose of paying such benefits for a
13 period of seven years from the date of death of the member, then
14 such benefits shall be escheated to the Commonwealth for the
15 benefit of the fund.

16 * * *

17 Section 3. Section 8507 of Title 24 is amended by adding a
18 subsection to read:

19 § 8507. Rights and duties of school employees and members.

20 * * *

21 (1) Restriction.--Notwithstanding anything to the contrary
22 in this chapter, a member who is married at the time of his
23 selection of a beneficiary or survivor annuitant, who is married
24 at the time of his selection of a form of benefit payment or who
25 becomes married following such selection of a beneficiary or
26 survivor annuitant but prior to becoming entitled to or
27 selecting a form of payment or distribution shall not be
28 permitted to select a beneficiary or survivor annuitant other
29 than his spouse, if married at the time, unless:

30 (1) (i) the spouse of the eligible member consents in

1 writing to the election;

2 (ii) the election designates a beneficiary that may
3 not be changed without spousal consent or the consent of
4 the spouse expressly permits designations by the member
5 without any requirement of further consent by the spouse;
6 and

7 (iii) the spouse's consent acknowledges the effect
8 of the election and is witnessed by a member of the board
9 or a notary public; or

10 (2) it is established to the satisfaction of the board
11 that the consent required under paragraph (1) may not be
12 obtained because there is no spouse or because the spouse
13 cannot be located.

14 Any consent by a spouse or establishment that the consent of a
15 spouse may not be obtained under paragraph (2) shall be
16 effective only with respect to the spouse.

17 Section 4. Section 5705 of Title 71 is amended by adding a
18 subsection to read:

19 § 5705. Member's options.

20 * * *

21 (c) Spouse must consent to election.--Any eligible member's
22 election under this section that does not provide for at least
23 50% survivor annuity to such member's surviving spouse shall not
24 take effect unless:

25 (1) (i) the spouse of the eligible member consents in
26 writing to such election;

27 (ii) such election designates a beneficiary or form
28 of benefits that may not be changed without spousal
29 consent or the consent of the spouse expressly permits
30 designations by the member without any requirement of

1 further consent by the spouse; and
2 (iii) the spouse's consent acknowledges the effect
3 of such election and is witnessed by a member of the
4 board or a notary public; or

5 (2) it is established to the satisfaction of the board
6 that the consent required under paragraph (1) may not be
7 obtained because there is no spouse or because the spouse
8 cannot be located.

9 Any consent by a spouse or establishment that the consent of a
10 spouse may not be obtained under paragraph (2) shall be
11 effective only with respect to such spouse.

12 Section 5. Sections 5707(a), 5709(c) and 5905(g) of Title 71
13 are amended to read:

14 § 5707. Death benefits.

15 (a) Members eligible for annuities.--Any active member,
16 inactive member on leave without pay, vestee or current or
17 former State employee performing USERRA leave who dies and was
18 eligible for an annuity in accordance with section 5308(a) or
19 (b) (relating to eligibility for annuities) or special vestee
20 who has attained superannuation age and dies before applying for
21 a superannuation annuity shall be considered as having applied
22 for an annuity to become effective the day before his death and
23 in the event he has not elected an option or such election has
24 not been approved prior to his death, it shall be assumed that
25 he elected Option 1[.] and assigned as beneficiary his spouse,
26 unless a contrary beneficiary designation meeting the
27 requirements of this chapter has been provided in writing to the
28 board. If such member is unmarried and has not designated a
29 beneficiary under this chapter, it shall be assumed that he
30 elected Option 1 and assigned his estate as his beneficiary.

1 * * *

2 § 5709. Payment of benefits.

3 * * *

4 (c) Death or absence of beneficiary.--If the beneficiary
5 designated by a member should predecease him or die within 30
6 days of his death, or if a valid nomination of a beneficiary is
7 not in effect at his death, any money payable to a beneficiary
8 shall be payable to the estate of the member first to his
9 surviving spouse and, if there is no spouse, then to his estate.

10 § 5905. Duties of the board regarding applications and
11 elections of members.

12 * * *

13 (g) Death benefits.--Upon receipt of notification from the
14 head of a department of the death of an active member, a member
15 performing USERRA leave or a member on leave without pay, the
16 board shall [advise] notify the designated beneficiary or
17 survivor annuitant of the benefits to which he is entitled, and
18 shall make the first payment to the beneficiary, under the plan
19 elected by the beneficiary, within 60 days of receipt of
20 certification of death and other necessary data. If no
21 beneficiary designation is in effect at the date of the member's
22 death [or no notice has been filed with the board to pay the
23 amount of the benefits to the member's estate], the member's
24 designated beneficiary shall be deemed to be his surviving
25 spouse. If such member did not designate a beneficiary and was
26 unmarried at the time of his death, the board is authorized to
27 pay [the] such benefits to the executor, administrator[,
28 surviving spouse] or next of kin of the deceased member, and
29 payment pursuant hereto shall fully discharge the fund from any
30 further liability to make payment of such benefits to any other

1 person. If the surviving spouse, designated beneficiary or next
2 of kin of the deceased member cannot be found for the purpose of
3 paying [the] such benefits for a period of seven years from the
4 date of death of the member, then [the] such benefits shall be
5 escheated to the Commonwealth for the benefit of the fund.

6 * * *

7 Section 6. Section 5907 of Title 71 is amended by adding a
8 subsection to read:

9 § 5907. Rights and duties of State employees and members.

10 * * *

11 (1) Restriction.--Notwithstanding anything to the contrary
12 in this chapter, a member who is married at the time of his
13 selection of a beneficiary or survivor annuitant, who is married
14 at the time of his selection of a form of benefit payment or who
15 becomes married following such selection of a beneficiary or
16 survivor annuitant but prior to becoming entitled to or
17 selecting a form of payment or distribution shall not be
18 permitted to select a beneficiary or survivor annuitant other
19 than his spouse, if married at the time, unless:

20 (1) (i) the spouse of the eligible member consents in
21 writing to such election;

22 (ii) such election designates a beneficiary that may
23 not be changed without spousal consent or the consent of
24 such spouse expressly permits designations by the member
25 without any requirement of further consent by the spouse;
26 and

27 (iii) the spouse's consent acknowledges the effect
28 of such election and is witnessed by a member of the
29 board or a notary public; or

30 (2) it is established to the satisfaction of the board

1 that the consent required under paragraph (1) may not be
2 obtained because there is no spouse or because the spouse
3 cannot be located.

4 Any consent by a spouse, or establishment that the consent of a
5 spouse may not be obtained under paragraph (2) shall be
6 effective only with respect to such spouse.

7 Section 7. This act shall take effect in 60 days.