

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 197 Session of 2017

INTRODUCED BY HUGHES, SCHWANK, BREWSTER, COSTA AND HAYWOOD,
JANUARY 26, 2017

REFERRED TO FINANCE, JANUARY 26, 2017

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 public school 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
23 does not provide adequate protection to the nonemployee

1 spouse in the event of the employee's death.

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

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

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

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

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

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

29 Section 1. Section 8345 of Title 24 of the Pennsylvania
30 Consolidated Statutes is amended by adding a subsection to read:

1 § 8345. Member's options.

2 * * *

3 (c) Spouse must consent to election.--

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

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

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

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

17 (ii) it is established to the satisfaction of the
18 board that the consent required under subparagraph (i)
19 may not be obtained because there is no spouse or because
20 the spouse cannot be located.

21 (2) Any consent by a spouse or establishment that the
22 consent of a spouse may not be obtained under paragraph (1)
23 (ii) shall be effective only with respect to such spouse.

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

26 § 8347. Death benefits.

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

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

11 * * *

12 § 8349. Payment of benefits.

13 * * *

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

20 § 8505. Duties of board regarding applications and elections of
21 members.

22 * * *

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

1 filed with the board to pay the amount of such benefits to the
2 member's estate], the member's designated beneficiary shall be
3 deemed to be his surviving spouse. If such member did not
4 designate a beneficiary and was unmarried at the time of his
5 death, the board is authorized to pay such benefits to the
6 executor, administrator[, surviving spouse] or next-of-kin of
7 the deceased member, and payment pursuant hereto shall fully
8 discharge the fund from any further liability to make payment of
9 such benefits to any other person.

10 * * *

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

13 § 8507. Rights and duties of school employees and members.

14 * * *

15 (1) Restriction.--

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

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

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

1 consent by the spouse; and

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

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

9 (2) Any consent by a spouse or establishment that the
10 consent of a spouse may not be obtained under paragraph (1)
11 (ii) shall be effective only with respect to the spouse.

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

14 § 5705. Member's options.

15 * * *

16 (c) Spouse must consent to election.--

17 (1) Any eligible member's election under this section
18 that does not provide for at least 50% survivor annuity to
19 such member's surviving spouse shall not take effect unless:

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

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

27 (C) 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 (ii) it is established to the satisfaction of the

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

4 (2) Any consent by a spouse or establishment that the
5 consent of a spouse may not be obtained under paragraph (1)
6 (ii) shall be effective only with respect to such spouse.

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

9 § 5707. Death benefits.

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

26 * * *

27 § 5709. Payment of benefits.

28 * * *

29 (c) Death or absence of beneficiary.--If the beneficiary
30 designated by a member should predecease him or die within 30

1 days of his death, or if a valid nomination of a beneficiary is
2 not in effect at his death, any money payable to a beneficiary
3 shall be payable to the estate of the member first to his
4 surviving spouse and, if there is no spouse, then to his estate.

5 * * *

6 § 5905. Duties of the board regarding applications and
7 elections of members.

8 * * *

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

27 * * *

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

30 § 5907. Rights and duties of State employees and members.

1 * * *

2 (1) Restriction.--

3 (1) Notwithstanding anything to the contrary in this
4 chapter, a member who is married at the time of his selection
5 of a beneficiary or survivor annuitant, who is married at the
6 time of his selection of a form of benefit payment or who
7 becomes married following such selection of a beneficiary or
8 survivor annuitant but prior to becoming entitled to or
9 selecting a form of payment or distribution shall not be
10 permitted to select a beneficiary or survivor annuitant other
11 than his spouse, if married at the time, unless:

12 (i) (A) the spouse of the eligible member consents
13 in writing to such election;

14 (B) such election designates a beneficiary that
15 may not be changed without spousal consent or the
16 consent of such spouse expressly permits designations
17 by the member without any requirement of further
18 consent by the spouse; and

19 (C) the spouse's consent acknowledges the effect
20 of such election and is witnessed by a member of the
21 board or a notary public; or

22 (ii) it is established to the satisfaction of the
23 board that the consent required under subparagraph (i)
24 may not be obtained because there is no spouse or because
25 the spouse cannot be located.

26 (2) Any consent by a spouse or establishment that the
27 consent of a spouse may not be obtained under paragraph (1)
28 (ii) shall be effective only with respect to such spouse.

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