

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 303 Session of 2021

INTRODUCED BY HUGHES, TARTAGLIONE, SANTARSIERO, BREWSTER,
SCHWANK AND COSTA, MARCH 10, 2021

REFERRED TO FINANCE, MARCH 10, 2021

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, members and participants; in benefits, further
9 providing for member's options, for death benefits and for
10 payment of benefits; and, in administration, funds, accounts,
11 general provisions, further providing for duties of board
12 regarding applications and elections of members and for
13 rights and duties of State employees, members and
14 participants.

15 The General Assembly finds and declares as follows:

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

21 (2) The law in this Commonwealth currently recognizes a
22 spouse's marital property interest in a State or public
23 school employee's accrued pension benefits upon divorce, but
24 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 from the fund to
2 become effective the day before his death; and, in the event he
3 has not elected an option, it shall be assumed that he elected
4 Option 1 and assigned as beneficiary [that person last
5 designated in writing to the board.] his spouse unless a
6 contrary beneficiary designation meeting the requirements of
7 this chapter has been provided in writing to the board. If such
8 member is unmarried and has not designated a beneficiary under
9 this chapter, it shall be assumed that he elected Option 1 and
10 assigned his estate as his beneficiary.

11 * * *

12 § 8349. Payment of benefits from the system.

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 * * *

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

23 * * *

24 (h) Death benefits.--Upon receipt of notification of the
25 death of a member or former member on USERRA leave or an active
26 participant, an inactive participant or a former participant
27 performing USERRA leave, the board shall notify the designated
28 beneficiary or survivor annuitant of the benefits to which he is
29 entitled and shall make the first payment to the beneficiary
30 under the benefits elected by the beneficiary within 60 days of

1 receipt of certification of death and other necessary data. If
2 no beneficiary designation is in effect at the date of the
3 member's or participant's death [or no notice has been filed
4 with the board to pay the amount of such benefits to the
5 member's or participant's estate], the designated beneficiary of
6 the member or participant shall be deemed to be the surviving
7 spouse of the member or participant. If such member or
8 participant did not designate a beneficiary and was unmarried at
9 the time of the member's or participant's death, the board is
10 authorized to pay such benefits to the executor, administrator[,
11 surviving spouse] or next-of-kin of the deceased member or
12 participant, and payment pursuant hereto shall fully discharge
13 the fund or plan from any further liability to make payment of
14 such benefits to any other person.

15 * * *

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

18 § 8507. Rights and duties of school employees, members and
19 participants.

20 * * *

21 (1) Restriction.--

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

1 (i) (A) the spouse of the eligible member consents
2 in writing to the election;

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

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

11 (ii) it is established to the satisfaction of the
12 board that the consent required under subparagraph (i)
13 may not be obtained because there is no spouse or because
14 the spouse cannot be located.

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

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

20 § 5705. Member's options.

21 * * *

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

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

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

28 (B) such election designates a beneficiary or
29 form of benefits that may not be changed without
30 spousal consent or the consent of the spouse

1 expressly permits designations by the member without
2 any requirement of further consent by the spouse; and
3 (C) the spouse's consent acknowledges the effect
4 of such election and is witnessed by a member of the
5 board or a notary public; or
6 (ii) it is established to the satisfaction of the
7 board that the consent required under subparagraph (i)
8 may not be obtained because there is no spouse or because
9 the spouse cannot be located.

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

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

15 § 5707. Death benefits.

16 (a) Members eligible for annuities.--Any active member,
17 inactive member, vestee or current or former State employee
18 performing USERRA leave who dies and was eligible for an annuity
19 in accordance with section 5308(a) or (b) (relating to
20 eligibility for annuities) or special vestee who has attained
21 superannuation age and dies before applying for a superannuation
22 annuity shall be considered as having applied for an annuity to
23 become effective the day before his death and in the event he
24 has not elected an option or such election has not been approved
25 prior to his death, it shall be assumed that he elected Option
26 1[.] and assigned as beneficiary his spouse, unless a contrary
27 beneficiary designation meeting the requirements of this chapter
28 has been provided in writing to the board. If such member is
29 unmarried and has not designated a beneficiary under this
30 chapter, it shall be assumed that he elected Option 1 and

1 assigned his estate as his beneficiary. For purposes of this
2 subsection, a member with Class A-5 service or Class A-6 service
3 who has ten or more eligibility points shall be considered
4 eligible for an annuity based on Class A-5 or Class A-6 service,
5 subject to a reduction factor calculated to provide benefits
6 actuarially equivalent to an annuity starting at superannuation
7 age, even if the member had not attained age 62.

8 * * *

9 § 5709. Payment of benefits from the system.

10 * * *

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

17 * * *

18 § 5905. Duties of the board regarding applications and
19 elections of members and participants.

20 * * *

21 (g) Death benefits.--Upon receipt of notification from the
22 head of a department of the death of an active member, a member
23 performing USERRA leave, a member on leave without pay, an
24 active participant, an inactive participant on leave without pay
25 or a former participant performing USERRA leave, the board shall
26 [advise] notify the designated beneficiary or survivor annuitant
27 of the benefits to which he is entitled, and shall make the
28 first 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 the 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 the benefits to the
7 executor, administrator[, surviving spouse] or next of kin of
8 the deceased member, and payment pursuant to this subsection
9 shall fully discharge the fund from any further liability to
10 make payment of such benefits to any other person. If no
11 beneficiary designation is in effect at the date of a
12 participant's death or no notice has been filed with the board
13 to pay the amount of the benefits to the participant's estate,
14 the board may pay the benefits as established in the plan
15 document, and payment pursuant to this subsection shall fully
16 discharge the trust from any further liability to make payment
17 of such benefits to any other person.

18 * * *

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

21 § 5907. Rights and duties of State employees, members and
22 participants.

23 * * *

24 (1) Restriction.--

25 (1) Notwithstanding anything to the contrary in this
26 chapter, a member who is married at the time of his selection
27 of a beneficiary or survivor annuitant, who is married at the
28 time of his selection of a form of benefit payment or who
29 becomes married following such selection of a beneficiary or
30 survivor annuitant but prior to becoming entitled to or

1 selecting a form of payment or distribution shall not be
2 permitted to select a beneficiary or survivor annuitant other
3 than his spouse, if married at the time, unless:

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

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

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

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

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

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