

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 58 Session of 2023

INTRODUCED BY HUGHES, SCHWANK, TARTAGLIONE, BREWSTER,  
SANTARSIERO AND FONTANA, JANUARY 18, 2023

REFERRED TO FINANCE, JANUARY 18, 2023

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