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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 965 Session of  
2015

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INTRODUCED BY HUGHES, TEPLITZ, SCHWANK, BREWSTER AND WILLIAMS,  
JULY 23, 2015

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REFERRED TO FINANCE, JULY 23, 2015

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

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

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

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

21 Any consent by a spouse or establishment that the consent of a  
22 spouse may not be obtained under paragraph (2) shall be  
23 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. If the surviving spouse,  
10 designated beneficiary or next-of-kin of the deceased member  
11 cannot be found for the purpose of paying such benefits for a  
12 period of seven years from the date of death of the member, then  
13 such benefits shall be escheated to the Commonwealth for the  
14 benefit of the fund.

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 and members.

19 \* \* \*

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

29 (1) (i) the spouse of the eligible member consents in  
30 writing to the election;

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

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

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

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

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

18 § 5705. Member's options.

19          \* \* \*

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

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

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

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

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

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

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

13 § 5707. Death benefits.

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

30       \* \* \*

1 § 5709. Payment of benefits.

2 \* \* \*

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

9 § 5905. Duties of the board regarding applications and  
10 elections of members.

11 \* \* \*

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



1 of kin of the deceased member cannot be found for the purpose of  
2 paying [the] such benefits for a period of seven years from the  
3 date of death of the member, then [the] such benefits shall be  
4 escheated to the Commonwealth for the benefit of the fund.

5 \* \* \*

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

8 § 5907. Rights and duties of State employees and members.

9 \* \* \*

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

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

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

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

29 (2) it is established to the satisfaction of the board  
30 that the consent required under paragraph (1) may not be

1 obtained because there is no spouse or because the spouse  
2 cannot be located.

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

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