

S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

Introduced by M. of A. V. LOPEZ, PHEFFER, BARRON, SPANO, ZEBROWSKI,
MILLMAN, KOON, WEINSTEIN -- (at request of the Office of Court Admin-
istration) -- read once and referred to the Committee on Governmental
Employees

AN ACT to amend the retirement and social security law, in relation to
death benefits for the beneficiaries of certain members of the retire-
ment system

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 60 of the retirement and social security law is
2 amended by adding a new subdivision g to read as follows:
3 G. 1. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A MEMBER, OR
4 WITHIN NINETY DAYS AFTER HIS OR HER DEATH, THE PERSON NOMINATED BY HIM
5 OR HER TO RECEIVE HIS OR HER ORDINARY DEATH BENEFIT, MAY ELECT TO
6 RECEIVE, IN LIEU OF SUCH BENEFIT, A DEATH BENEFIT IN THE FORM OF THE
7 PENSION TO WHICH SUCH MEMBER WOULD HAVE BEEN ENTITLED HAD HE OR SHE
8 RETIRED EFFECTIVE BEFORE HIS OR HER DEATH. FOR PURPOSES OF THIS SUBDIVI-
9 SION, THE PERSON MAKING THE ELECTION HEREUNDER SHALL, AT THAT TIME,
10 ELECT AMONG THE OPTIONS PROVIDED IN SECTION NINETY OF THIS ARTICLE; AND
11 SUCH OPTION SHALL BE GIVEN EFFECT AS IF MADE BY THE MEMBER.
12 2. THE DEATH BENEFIT PROVIDED BY THIS SUBDIVISION SHALL NOT BE PAYABLE
13 UNLESS THE MEMBER, AT THE TIME OF HIS OR HER DEATH, IS ELIGIBLE TO
14 RETIRE AND IS A STATE-PAID JUDGE OR JUSTICE OF THE UNIFIED COURT SYSTEM
15 (INCLUDING A RETIRED JUDGE OF THE COURT OF APPEALS OR RETIRED JUSTICE OF
16 THE SUPREME COURT WHO IS SERVING AS A JUSTICE OF THE SUPREME COURT
17 PURSUANT TO CERTIFICATION BY THE ADMINISTRATIVE BOARD OF THE COURTS IN
18 ACCORDANCE WITH SECTION ONE HUNDRED FOURTEEN OR ONE HUNDRED FIFTEEN OF
19 THE JUDICIARY LAW) OR A HOUSING JUDGE OF THE CIVIL COURT OF THE CITY OF
20 NEW YORK ("ELIGIBLE EMPLOYEE"). IN THE EVENT THAT A MEMBER ELECTS THE
21 DEATH BENEFIT PROVIDED BY THIS SUBDIVISION AND, AT THE TIME OF HIS OR
22 HER DEATH, HE OR SHE HAS NOT RETIRED BUT IS NOT AN ELIGIBLE EMPLOYEE,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 HIS OR HER BENEFICIARY SHALL BE ENTITLED TO THE ORDINARY DEATH BENEFIT
2 PROVIDED BY THE OTHER PROVISIONS OF THIS SECTION AND/OR SUCH OTHER BENE-
3 FITS AS MAY ELSEWHERE BE AUTHORIZED BY LAW.

4 S. 2. Section 448 of the retirement and social security law is amended
5 by adding a new subdivision h to read as follows:

6 H. 1. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A MEMBER WHO IS
7 SUBJECT TO THE PROVISIONS OF THIS ARTICLE, OR WITHIN NINETY DAYS AFTER
8 HIS OR HER DEATH, THE PERSON NOMINATED BY HIM OR HER TO RECEIVE HIS OR
9 HER DEATH BENEFIT HEREUNDER, MAY ELECT TO RECEIVE, IN LIEU OF SUCH BENE-
10 FIT, A DEATH BENEFIT IN THE FORM OF THE PENSION TO WHICH SUCH MEMBER
11 WOULD HAVE BEEN ENTITLED HAD HE OR SHE RETIRED EFFECTIVE BEFORE HIS OR
12 HER DEATH. FOR PURPOSES OF THIS SUBDIVISION, THE PERSON MAKING THE
13 ELECTION HEREUNDER SHALL, AT THAT TIME, ELECT AMONG THE OPTIONS PROVIDED
14 IN SECTION NINETY OF THIS CHAPTER; AND SUCH OPTION SHALL BE GIVEN EFFECT
15 AS IF MADE BY THE MEMBER.

16 2. THE DEATH BENEFIT PROVIDED BY THIS SUBDIVISION SHALL NOT BE PAYABLE
17 UNLESS THE MEMBER, AT THE TIME OF HIS OR HER DEATH, IS ELIGIBLE TO
18 RETIRE AND IS A STATE-PAID JUDGE OR JUSTICE OF THE UNIFIED COURT SYSTEM
19 (INCLUDING A RETIRED JUDGE OF THE COURT OF APPEALS OR RETIRED JUSTICE OF
20 THE SUPREME COURT WHO IS SERVING AS A JUSTICE OF THE SUPREME COURT
21 PURSUANT TO CERTIFICATION BY THE ADMINISTRATIVE BOARD OF THE COURTS IN
22 ACCORDANCE WITH SECTION ONE HUNDRED FOURTEEN OR ONE HUNDRED FIFTEEN OF
23 THE JUDICIARY LAW) OR A HOUSING JUDGE OF THE CIVIL COURT OF THE CITY OF
24 NEW YORK ("ELIGIBLE EMPLOYEE"). IN THE EVENT THAT A MEMBER ELECTS THE
25 DEATH BENEFIT PROVIDED BY THIS SUBDIVISION AND, AT THE TIME OF HIS OR
26 HER DEATH, HE OR SHE HAS NOT RETIRED BUT IS NOT AN ELIGIBLE EMPLOYEE,
27 HIS OR HER BENEFICIARY SHALL BE ENTITLED TO THE DEATH BENEFIT PROVIDED
28 BY THE OTHER PROVISIONS OF THIS SECTION AND/OR SUCH OTHER BENEFITS AS
29 MAY ELSEWHERE BE AUTHORIZED BY LAW.

30 S. 3. Section 606 of the retirement and social security law is amended
31 by adding a new subdivision f to read as follows:

32 F. 1. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A MEMBER WHO IS
33 SUBJECT TO THE PROVISIONS OF THIS ARTICLE, OR WITHIN NINETY DAYS AFTER
34 HIS OR HER DEATH, THE PERSON NOMINATED BY HIM OR HER TO RECEIVE HIS OR
35 HER DEATH BENEFIT HEREUNDER, MAY ELECT TO RECEIVE, IN LIEU OF SUCH BENE-
36 FIT, A DEATH BENEFIT IN THE FORM OF THE PENSION TO WHICH SUCH MEMBER
37 WOULD HAVE BEEN ENTITLED HAD HE OR SHE RETIRED EFFECTIVE BEFORE HIS OR
38 HER DEATH. FOR PURPOSES OF THIS SUBDIVISION, THE PERSON MAKING THE
39 ELECTION HEREUNDER SHALL, AT THAT TIME, ELECT AMONG THE OPTIONS PROVIDED
40 IN SECTION NINETY OF THIS CHAPTER; AND SUCH OPTION SHALL BE GIVEN EFFECT
41 AS IF MADE BY THE MEMBER.

42 2. THE DEATH BENEFIT PROVIDED BY THIS SUBDIVISION SHALL NOT BE PAYABLE
43 UNLESS THE MEMBER, AT THE TIME OF HIS OR HER DEATH, IS ELIGIBLE TO
44 RETIRE AND IS A STATE-PAID JUDGE OR JUSTICE OF THE UNIFIED COURT SYSTEM
45 (INCLUDING A RETIRED JUDGE OF THE COURT OF APPEALS OR RETIRED JUSTICE OF
46 THE SUPREME COURT WHO IS SERVING AS A JUSTICE OF THE SUPREME COURT
47 PURSUANT TO CERTIFICATION BY THE ADMINISTRATIVE BOARD OF THE COURTS IN
48 ACCORDANCE WITH SECTION ONE HUNDRED FOURTEEN OR ONE HUNDRED FIFTEEN OF
49 THE JUDICIARY LAW) OR A HOUSING JUDGE OF THE CIVIL COURT OF THE CITY OF
50 NEW YORK ("ELIGIBLE EMPLOYEE"). IN THE EVENT THAT A MEMBER ELECTS THE
51 DEATH BENEFIT PROVIDED BY THIS SUBDIVISION AND, AT THE TIME OF HIS OR
52 HER DEATH, HE OR SHE HAS NOT RETIRED BUT IS NOT AN ELIGIBLE EMPLOYEE,
53 HIS OR HER BENEFICIARY SHALL BE ENTITLED TO THE DEATH BENEFIT PROVIDED
54 BY THE OTHER PROVISIONS OF THIS SECTION AND/OR SUCH OTHER BENEFITS AS
55 MAY ELSEWHERE BE AUTHORIZED BY LAW.

1 S 4. This act shall take effect immediately and shall apply to members
2 of the retirement system dying on or after such effective date;
3 provided, however, the amendments to section 606 of the retirement and
4 social security law made by section three of this act shall expire on
5 the same date as such section expires and shall not affect the expira-
6 tion of such section as provided in section 615 of such law.

FISCAL NOTE.--This bill will modify the death benefit for judges in the Unified Court System who are eligible for a service retirement, to be the service retirement benefit as if the judge had retired before their death. The beneficiary will then choose an option pursuant to Section 90 of the Retirement and Social Security Law. For affected members in tiers 2, 3 and 4, this bill will make available a retirement benefit option for which they are not eligible under a service retirement.

If this bill is enacted, it is estimated that there will be increases in the annual contributions of the State of New York of approximately \$170,000.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$5.24 million which will be borne by the State of New York as a one time payment.

This estimate, dated April 27, 2009 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-227, prepared by the Actuary for the New York State and Local Employees' Retirement System.