

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

5088--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. ABBATE, COLTON -- Multi-Sponsored by -- M. of A. AUBRY -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law and the education law, in relation to providing beneficiaries with the same allocation of retirement benefits if the member has the service retirement application, disability retirement applications or option election forms postmarked prior to his or her death

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 74-a to read as follows:
3 S 74-A. APPLICATIONS AND ELECTIONS; ISSUES DUE TO DEATH. WHENEVER A
4 STATUTE REQUIRES THAT A DOCUMENT MUST BE FILED OR MONEYS DEPOSITED WITH
5 THE SYSTEM WITHIN A PRESCRIBED PERIOD OF TIME OR BY A SPECIFIED DATE IN
6 ORDER FOR A MEMBER TO BE ELIGIBLE FOR SERVICE CREDIT OR A BENEFIT FROM
7 THE SYSTEM THE DOCUMENT SHALL BE DEEMED FILED OR THE MONEYS DEPOSITED
8 WITH THE SYSTEM ON THE DAY THEY ARE CLEARLY POSTMARKED BY THE UNITED
9 STATES POSTAL SERVICE AS THE RETIREMENT SYSTEM MAY SPECIFICALLY PERMIT
10 BY RULE OR REGULATION. NOTWITHSTANDING THE PROVISIONS HEREOF, NO SUCH
11 DOCUMENT SHALL BE DEEMED FILED OR MONEYS DEPOSITED WITH THE SYSTEM ON
12 THE DAY OF MAILING UNLESS ACTUALLY RECEIVED BY THE RETIREMENT SYSTEM AS
13 A RESULT OF SUCH MAILING.
14 S 2. The retirement and social security law is amended by adding a new
15 section 374-a to read as follows:
16 S 374-A. APPLICATIONS AND ELECTIONS; ISSUES DUE TO DEATH. WHENEVER A
17 STATUTE REQUIRES THAT A DOCUMENT MUST BE FILED OR MONEYS DEPOSITED WITH
18 THE SYSTEM WITHIN A PRESCRIBED PERIOD OF TIME OR BY A SPECIFIED DATE IN

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

LBD07883-02-2

1 ORDER FOR A MEMBER TO BE ELIGIBLE FOR SERVICE CREDIT OR A BENEFIT FROM
2 THE SYSTEM THE DOCUMENT SHALL BE DEEMED FILED OR THE MONEYS DEPOSITED
3 WITH THE SYSTEM ON THE DAY THEY ARE CLEARLY POSTMARKED BY THE UNITED
4 STATES POSTAL SERVICE AS THE RETIREMENT SYSTEM MAY SPECIFICALLY PERMIT
5 BY RULE OR REGULATION. NOTWITHSTANDING THE PROVISIONS HEREOF, NO SUCH
6 DOCUMENT SHALL BE DEEMED FILED OR MONEYS DEPOSITED WITH THE SYSTEM ON
7 THE DAY OF MAILING UNLESS ACTUALLY RECEIVED BY THE RETIREMENT SYSTEM AS
8 A RESULT OF SUCH MAILING.

9 S 3. Subdivision 19 of section 508 of the education law, as amended by
10 chapter 248 of the laws of 2003, is amended to read as follows:

11 19. Whenever a statute requires that a document must be filed or
12 moneys deposited with the system within a prescribed period of time or
13 by a specified date in order for a member to be eligible for service
14 credit or a benefit from the system the document shall be deemed filed
15 or the moneys deposited with the system on the day they are [mailed
16 through] CLEARLY POSTMARKED BY the United States postal service
17 [provided the mailing is by registered or certified mail or such other
18 equivalent service provided by the United States postal service] as the
19 retirement board may specifically permit by rule or regulation. Notwith-
20 standing the provisions hereof, no such document shall be deemed filed
21 or moneys deposited with the system on the day of mailing unless actual-
22 ly received by the retirement system as a result of such mailing.

23 S 4. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend certain filing requirements of the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) by setting the date of filing as the date of postmark for any document that has to be filed, or payment that has to be made by a specified date or within a prescribed time period.

If this bill is enacted, we anticipate that the cost impact would be negligible. The cost would be shared by the State of New York and all participating employers in the ERS and PFRS.

Summary of relevant resources:

Data: March 31, 2011 Actuarial Year End File with distributions of membership and other statistics displayed in the 2011 Report of the Actuary and 2011 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010 and 2011 Annual Report to the Comptroller on Actuarial Assumptions, Codes Rules and Regulations of the State of New York: Audit and Control.

Market Assets and GASB Disclosures: March 31, 2011 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2011 Actuarial Valuations report.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated November 14, 2011, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-15, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.