

6045--B

2015-2016 Regular Sessions

I N A S S E M B L Y

March 11, 2015

Introduced by M. of A. ABBATE, LAVINE, KAMINSKY, SKOUFIS, COLTON, McDO-  
NOUGH -- read once and referred to the Committee on Governmental  
Employees -- reported and referred to the Committee on Ways and Means  
-- committee discharged, bill amended, ordered reprinted as amended  
and recommitted to said committee -- again reported from said commit-  
tee with amendments, ordered reprinted as amended and recommitted to  
said committee

AN ACT to amend the retirement and social security law, in relation to  
providing beneficiaries with the same allocation of retirement bene-  
fits 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 ASSEM-  
BLY, 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. NOTWITH-  
4 STANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, IN THE EVENT  
5 A MEMBER DIES PRIOR TO RECEIPT BY THE COMPTROLLER OR THE RETIREMENT  
6 SYSTEM OF HIS OR HER APPLICATION FOR SERVICE RETIREMENT, DISABILITY  
7 RETIREMENT OR A RETIREMENT OPTION ELECTION FORM AND SUCH APPLICATION OR  
8 FORM WAS MAILED TO THE COMPTROLLER OR RETIREMENT SYSTEM BY UNITED STATES  
9 POSTAL SERVICE FIRST CLASS MAIL PRIOR TO DATE OF DEATH, THE APPLICATION  
10 OR FORM SHALL BE DEEMED FILED ON THE DATE OF MAILING, BASED UPON THE  
11 LEGIBLE POSTMARK ON THE ENVELOPE. THE COMPTROLLER SHALL HAVE THE SOLE  
12 AUTHORITY TO DETERMINE WHETHER A POSTMARK IS LEGIBLE FOR THE PURPOSE OF  
13 THIS SECTION. PROVIDED, HOWEVER, NO SUCH RETIREMENT APPLICATION OR  
14 OPTION ELECTION FORM SHALL BE DEEMED FILED WITH THE RETIREMENT SYSTEM ON  
15 THE DATE OF MAILING UNLESS ACTUALLY RECEIVED BY THE RETIREMENT SYSTEM AS  
16 A RESULT OF SUCH MAILING.

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

LBD00922-07-5

1 S 2. The retirement and social security law is amended by adding a new  
2 section 374-a to read as follows:

3 S 374-A. APPLICATIONS AND ELECTIONS; ISSUES DUE TO DEATH. NOTWITH-  
4 STANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, IN THE EVENT  
5 A MEMBER DIES PRIOR TO RECEIPT BY THE COMPTROLLER OR THE RETIREMENT  
6 SYSTEM OF HIS OR HER APPLICATION FOR SERVICE RETIREMENT, DISABILITY  
7 RETIREMENT OR A RETIREMENT OPTION ELECTION FORM AND SUCH APPLICATION OR  
8 FORM WAS MAILED TO THE COMPTROLLER OR RETIREMENT SYSTEM BY UNITED STATES  
9 POSTAL SERVICE FIRST CLASS MAIL PRIOR TO DATE OF DEATH, THE APPLICATION  
10 OR FORM SHALL BE DEEMED FILED ON THE DATE OF MAILING, BASED UPON THE  
11 LEGIBLE POSTMARK ON THE ENVELOPE. THE COMPTROLLER SHALL HAVE THE SOLE  
12 AUTHORITY TO DETERMINE WHETHER A POSTMARK IS LEGIBLE FOR THE PURPOSE OF  
13 THIS SECTION. PROVIDED, HOWEVER, NO SUCH RETIREMENT APPLICATION OR  
14 OPTION ELECTION FORM SHALL BE DEEMED FILED WITH THE RETIREMENT SYSTEM ON  
15 THE DATE OF MAILING UNLESS ACTUALLY RECEIVED BY THE RETIREMENT SYSTEM AS  
16 A RESULT OF SUCH MAILING.

17 S 3. Notwithstanding any other provision of law to the contrary, none  
18 of the provisions of this act shall be subject to the appropriation  
19 requirement of section 25 of the retirement and social security law.

20 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 in the event a member dies prior to receipt by the retirement system of an application for service retirement, disability retirement or a retirement election form and such application or form was mailed to the retirement system prior to the date of death.

If this bill is enacted, we anticipate that there would be one or two members per year who would receive additional benefits due to being granted an ordinary disability benefit rather than an ordinary death benefit. The average cost impact for each such case is estimated to be less than \$100,000.

ERS and PFRS costs would be shared by the State of New York and all participating employers in the ERS and the PFRS.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2014 actuarial valuation. Distributions and other statistics can be found in the 2014 Report of the Actuary and the 2014 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012, 2013 and 2014 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2014 New York State and Local Retirement System Financial Statements and Supplementary Information.

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 May 28, 2015, and intended for use only during the 2015 Legislative Session, is Fiscal Note No. 2015-126, 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.