STATE OF NEW YORK

7553--B

2019-2020 Regular Sessions

IN ASSEMBLY

May 9, 2019

Introduced by M. of A. ZEBROWSKI, BRABENEC -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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, in relation to authorizing the beneficiaries of a member of the state and local employees' retirement system who die after filing a retirement application to choose pension benefits rather than a death benefit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision a of section 70 of the retirement and social security law, as amended by chapter 375 of the laws of 2011, is amended to read as follows:

a. Any member may retire if he or she shall have attained at least the minimum retirement age while in service as a member, or while in federal service, or in the service of the United Nations or other international organizations of which the United States is a member, as a member continued pursuant to paragraph one of subdivision f of section forty of this article, or while entitled to make application for a vested retirement allowance pursuant to section seventy-six of this title. Any such member desiring to retire shall execute and file with the comptroller an application for retirement, which shall specify the effective date of his or her retirement, which shall be not less than fifteen nor more than ninety days subsequent to such date of filing. An application for service retirement, filed hereunder in accordance with the provisions of subdivision c of section sixty-two or subdivision f of section sixty-three of this article, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under

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

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either of such subdivisions is granted, then and in that event the retirement allowance granted in accordance with the provisions of this section shall be appropriately adjusted. **Notwithstanding any other provision of law, for any member who is eligible to retire and who has died while in active service, and who has filed an application for service retirement less than thirty days prior to death, the member's active beneficiary shall have the option to choose the death benefit or if such member filed an option election form prior to death, the benefit elected by the member on such form, in which case the member will be deemed to have retired the day prior to death.**

§ 2. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2017.

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

This bill would allow a deceased member's active death beneficiary the option to make effective the service retirement and option election form filed by the member, resulting in payment of a survivor's benefit in lieu of the member's active death benefit, provided the member is (1) eligible to retire (on the day before the date of death), (2) has died in active service, (3) has **filed** an application for service retirement less than thirty days prior to death, and (4) has **filed** an option election form prior to death. The date used for the deemed service retirement will be the day prior to the member's death. This bill will include deaths which occurred on or after January 1, 2017.

If this bill is enacted, the cost will depend upon the deceased member's age, service, salary, plan, and the optional form selected by the member on the option election form filed with the New York State and Local Employees' Retirement System (NYSLERS). For standard options, there will be an estimated additional cost of up to five (5) times the salary of a deceased member. This cost assumes that the post-retirement death benefit will be payable on behalf of eligible members only when the service retirement form is selected.

The number of members and beneficiaries who could be affected by this legislation cannot be readily determined, but it is estimated that approximately 450 beneficiaries could benefit from this provision each year. Those costs arising would be shared and spread by the State of New York and the participating employers in NYSLERS.

In addition to the per person costs stated above, there will be an administrative cost to implement the provisions of this legislation.

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, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated January 28, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-45, prepared by the Actuary for the New York State and Local Retirement System.