

STATE OF NEW YORK

7553

2019-2020 Regular Sessions

IN ASSEMBLY

May 9, 2019

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Governmental Employees

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 appli-
cation to choose pension benefits rather than a death benefit

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

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

4 a. Any member may retire if he or she shall have attained at least the
5 minimum retirement age while in service as a member, or while in federal
6 service, or in the service of the United Nations or other international
7 organizations of which the United States is a member, as a member
8 continued pursuant to paragraph one of subdivision f of section forty of
9 this article, or while entitled to make application for a vested retire-
10 ment allowance pursuant to section seventy-six of this title. Any such
11 member desiring to retire shall execute and file with the comptroller an
12 application for retirement, which shall specify the effective date of
13 his or her retirement, which shall be not less than fifteen nor more
14 than ninety days subsequent to such date of filing. An application for
15 service retirement, filed hereunder in accordance with the provisions of
16 subdivision c of section sixty-two or subdivision f of section sixty-
17 three of this article, shall be processed in the regular manner,
18 provided that if the application filed simultaneously therewith under
19 either of such subdivisions is granted, then and in that event the
20 retirement allowance granted in accordance with the provisions of this
21 section shall be appropriately adjusted. Notwithstanding any other
22 provision of law, any member who is eligible to retire and who has died
23 while in active service, and who has filed an application for service

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

LBD11209-02-9

1 retirement less than thirty days prior to death, shall be deemed to have
2 retired and the member's designated beneficiary shall have the option to
3 choose the benefit provided by service retirement rather than the death
4 benefit, provided, however that if the designated beneficiary elects the
5 service retirement benefit such person shall be required to choose an
6 option under section ninety of this article.

7 § 2. This act shall take effect immediately and shall be deemed to
8 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 designated beneficiary the option to choose the survivor's benefit provided by service retirement or 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, and (3) has filed an application for service retirement less than thirty days 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's designated beneficiary. For certain alternative options, as permitted under the Retirement and Social Security Law §90, §447, §514, and §610, there will be an estimated additional cost of up to eight (8) 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 250 beneficiaries could benefit from this provision each year. Pursuant to Section 25 of the Retirement and Social Security Law, those costs arising would be borne solely by the State of New York.

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, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 April 30, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-104, prepared by the Actuary for the New York State and Local Retirement System.