STATE OF NEW YORK

3474

2019-2020 Regular Sessions

IN SENATE

February 7, 2019

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT in relation to authorizing the son of Barry M. Dennis to be designated the beneficiary of his retirement benefits

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

Section 1. Notwithstanding any other provision of law to the contrary, Gregory Dennis, who had been named as the survivor beneficiary of his father Barry M. Dennis, a former employee of the Nassau County district attorney's office, on June 7, 2017 by Bruce M. Dennis acting in his capacity as power of attorney for his brother Barry and who had been confirmed as the beneficiary in a letter from the New York state and local employees' retirement system dated June 19, 2017 and who was later informed in a letter dated July 14, 2017 which was received by Bruce M. Dennis on July 19, 2017 that as a result of a statutory gifts rider pursuant to section 5-1514 of the general obligations law not adjoining the statutory short form power of attorney that the paper work naming Gregory Dennis as the beneficiary was not properly submitted and as a result the only option that was legally available to Barry M. Dennis was "Option 0" wherein no beneficiary is selected and the pension benefit cease upon the death of the member, shall be deemed the beneficiary of the retirement benefits of Barry M. Dennis as if such required statutory gifts rider had been present, and shall receive the option that was selected on the option election form that was rejected due to the unacceptable power of attorney, if on or before December 31, 2019 Bruce M. Dennis shall submit a request therefor to the state comptroller.

§ 2. Any amounts paid by the New York state and local employees' retirement system to Barry M. Dennis, his estate or to his beneficiaries, which exceed those amounts that would have been payable if such required statutory gift rider had been present, will be deducted on an

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

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actuarially equivalent basis over the expected future lifetime of Gregory Dennis from the benefits payable to him pursuant to this act.

§ 3. This act shall take effect immediately.

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

Barry M. Dennis was retired under an option 0, affording no continuance upon his death, following a failure of his agent to provide the necessary and requested documentation to properly execute an election of a Joint Survivor 100%, under which payments would continue to his son Gregory Dennis upon his death. This bill would deem Gregory Dennis the beneficiary of a Joint Survivor 100% continuance, upon the written request of the member's agent Bruce M. Dennis. Any overpayments by the New York State and Local Employees' Retirement System (ERS) on behalf of Barry M. Dennis will offset the future benefit payable via actuarial reduction.

If this bill is enacted during the 2019 legislative session, there will be an immediate past service cost of approximately $755,000. This cost would be shared by the State of New York and the participating employers in the ERS.

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 February 6, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-55, prepared by the Actuary for the New York State and Local Retirement System.