

STATE OF NEW YORK

9812

IN SENATE

May 31, 2024

Introduced by Sen. SKOUFIS -- (at request of the State Comptroller) --
read twice and ordered printed, and when printed to be committed to
the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to
authorizing beneficiaries to choose pension benefits or a death bene-
fit in certain circumstances

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, for any member who is eligible to retire, who has died
23 while in active service, and who has filed an application for service
24 retirement less than ninety days prior to death, such member's desig-
25 ated option election beneficiary or beneficiaries, if an option
26 election has been filed prior to death, or the beneficiary or benefi-

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

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aries designated for the death benefit, if no option election was filed prior to death, shall have the option to choose the benefit provided by service retirement rather than the death benefit, provided, however that if the designated beneficiary elects the service retirement benefit such person shall be required to choose an option as provided by law. If the member's beneficiary or beneficiaries elect the service retirement benefit, the member shall be deemed to have retired on the day before the member's date of death. If there are multiple option beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the service retirement benefit shall be payable under the option election form filed by the member prior to such member's death. If there are multiple death beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the death benefit shall be payable.

§ 2. Subdivision a of section 370 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 three hundred forty of this article or while entitled to make application for a vested retirement allowance pursuant to section three hundred 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 chapter, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under 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]~~ ninety days prior to death, ~~[shall be deemed to have retired and]~~ the member's designated option election beneficiary or beneficiaries, if an option election has been filed prior to death, or the beneficiary or beneficiaries designated for the death benefit, if no option election was filed prior to death, shall have the option to choose the benefit provided by service retirement rather than the death benefit, provided, however that if the designated beneficiary elects the service retirement benefit such person shall be required to choose an option ~~[under section three hundred ninety of this article]~~ as provided by law. If the member's beneficiary or beneficiaries elect the service retirement benefit, the member shall be deemed to have retired on the day before the member's date of death. If there are multiple option beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the service retirement under an agreed upon option, the service retirement benefit shall be payable under the option election form filed by the member prior to such member's death. If there are multiple death beneficiaries and such beneficiaries cannot agree on the choice between the death benefit or the

1 service retirement under an agreed upon option, the death benefit shall
2 be payable.

3 § 3. Notwithstanding any other provision of law to the contrary, the
4 provisions of this act shall not be subject to section 25 of the retire-
5 ment and social security law.

6 § 4. This act shall take effect immediately.