STATE OF NEW YORK

6699

2023-2024 Regular Sessions

IN ASSEMBLY

May 2, 2023

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 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 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**

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

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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.

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 application and option election form filed by the member with the New York State and Local Employees' Retirement System (NYSLERS), resulting in payment of a survivor's benefit in lieu of an active death benefit, provided the member is

1) eligible to retire as of the day immediately prior to their death,

2) has died in active service,

3) has filed an application for service retirement less thirty days prior to their death, and

4) has filed an option election form prior to their death.

The member will be deemed to have retired the day prior to their death.

If this bill is enacted during the 2023 legislative session, the cost will depend upon the deceased member's age, service, salary, plan, and the optional form elected by the member. For standard options, there will be an estimated additional cost of up to five (5) times the salary of the deceased member. This cost assumes that the post-retirement death benefit will be payable on behalf of any eligible member only when the service retirement benefit is chosen. All costs arising would be shared and spread by the State of New York and all participating employers in the NYSLERS.

Further, we anticipate significant administrative costs to implement the provisions of this legislation.

The number of members and beneficiaries who could be affected by this legislation cannot be readily determined. However, it is estimated that approximately 600 beneficiaries could benefit from this provision each year.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 March 15, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-90, prepared by the Actuary for the New York State and Local Retirement System.