

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 minated 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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1 aries designated for the death benefit, if no option election was filed
2 prior to death, shall have the option to choose the benefit provided by
3 service retirement rather than the death benefit, provided, however that
4 if the designated beneficiary elects the service retirement benefit such
5 person shall be required to choose an option as provided by law. If the
6 member's beneficiary or beneficiaries elect the service retirement bene-
7 fit, the member shall be deemed to have retired on the day before the
8 member's date of death. If there are multiple option beneficiaries and
9 such beneficiaries cannot agree on the choice between the death benefit
10 or the service retirement under an agreed upon option, the service
11 retirement benefit shall be payable under the option election form filed
12 by the member prior to such member's death. If there are multiple death
13 beneficiaries and such beneficiaries cannot agree on the choice between
14 the death benefit or the service retirement under an agreed upon option,
15 the death benefit shall be payable.

16 § 2. Subdivision a of section 370 of the retirement and social securi-
17 ty law, as amended by chapter 375 of the laws of 2011, is amended to
18 read as follows:

19 a. Any member may retire if he or she shall have attained at least the
20 minimum retirement age while in service as a member, or while in federal
21 service, or in the service of the United Nations or other international
22 organizations of which the United States is a member, as a member
23 continued pursuant to paragraph one of subdivision f of section three
24 hundred forty of this article or while entitled to make application for
25 a vested retirement allowance pursuant to section three hundred seven-
26 ty-six of this title. Any such member desiring to retire shall execute
27 and file with the comptroller an application for retirement, which shall
28 specify the effective date of his or her retirement, which shall be not
29 less than fifteen nor more than ninety days subsequent to such date of
30 filing. An application for service retirement, filed hereunder in
31 accordance with the provisions of subdivision c of section sixty-two or
32 subdivision f of section sixty-three of this chapter, shall be processed
33 in the regular manner, provided that if the application filed simultane-
34 ously therewith under either of such subdivisions is granted, then and
35 in that event the retirement allowance granted in accordance with the
36 provisions of this section shall be appropriately adjusted. Notwith-
37 standing any other provision of law, for any member who is eligible to
38 retire [~~and~~], who has died while in active service, and who has filed an
39 application for service retirement less than [~~thirty~~] ninety days prior
40 to death, [~~shall be deemed to have retired and~~] the member's designated
41 option election beneficiary or beneficiaries, if an option election has
42 been filed prior to death, or the beneficiary or beneficiaries desig-
43 nated for the death benefit, if no option election was filed prior to
44 death, shall have the option to choose the benefit provided by service
45 retirement rather than the death benefit, provided, however that if the
46 designated beneficiary elects the service retirement benefit such person
47 shall be required to choose an option [~~under section three hundred nine-~~
48 ~~ty of this article~~] as provided by law. If the member's beneficiary or
49 beneficiaries elect the service retirement benefit, the member shall be
50 deemed to have retired on the day before the member's date of death. If
51 there are multiple option beneficiaries and such beneficiaries cannot
52 agree on the choice between the death benefit or the service retirement
53 under an agreed upon option, the service retirement benefit shall be
54 payable under the option election form filed by the member prior to such
55 member's death. If there are multiple death beneficiaries and such bene-
56 ficiaries 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.