§ 70. Superannuation retirement. a. Any member may retire if such member 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 such member's 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, who has died while in active service, and who has filed an application for service retirement less than ninety days prior to death, such 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 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.

b. Any member who attains age seventy shall be retired on the first day of the calendar month next succeeding such event. Such retirement shall be on the basis of "Option One-half", unless the member files an effective election pursuant to section ninety of this article to retire on a different basis. If he shall have filed such an election, his retirement allowance shall be computed in accordance with the basis so selected by him. The provisions of this subdivision with respect to mandatory retirement shall be inapplicable to:

1. An elective officer.

2. A judge.

3. A justice.

4. An official referee.

5. A person holding office by virtue of an appointment to fill a vacancy in an elective office.

6. An employee of the port of New York authority.

7. A person who last became a member before April eleventh, nineteen hundred forty-five, and who serves continuously after such date in one or more of the following capacities:

(a) A clerk of a court, as provided in the constitution, article six, section twenty-one.

(b) An appointee of the governor.

(c) An employee of the legislature drawing an annual salary, or

(d) A chaplain of a county penal institution having served as such chaplain for not less than thirty years, or

8. A commissioner of elections.

c. Notwithstanding the provisions of subdivision b of this section, the state civil service commission may approve the continuance in service of members who have attained age seventy. Such approvals shall be for periods not to exceed two years each. No such approval shall be given unless:

1. The head of the department in which the member is employed shall file a written statement with the comptroller approving such continuance, and

2. The medical board shall certify that such member is physically fit to perform the duties of his position, and

3. The state civil service commission shall find that:

(a) Such member is less than seventy-eight years of age, and

(b) His continuance in service would be advantageous because of his expert knowledge and special qualifications.

The service of any such member may, however, be terminated at any time by the head of the department in which he is employed, upon sixty days written notice to such member.