S T A T E O F N E W Y O R K

3489

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to soft body stab-resistant or ballistic armor vests for police or correction officers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The section heading and subdivisions 1 and 2 of section 837-d of the executive law, as added by chapter 84 of the laws of 1984, are amended to read as follows:

Soft body STAB-RESISTANT OR ballistic armor vests for police OR CORRECTION officers. 1. As used in this section, the following terms have the following meanings:

(a) "Eligible police OR CORRECTION officer" means a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, OR A CORRECTION OFFICER, whose regular duties are such as the commissioner determines may expose the officer to serious physical injury which may result in death or disability;

(b) "Vest" means a soft body STAB-RESISTANT VEST OR A SOFT BODY ballistic armor vest;

(c) "Municipal corporation" means a county, city, town, village or police district;

(d) "Public authority" means an independent autonomous public corporation created by special act of the legislature;

(e) "Public benefit corporation" means a corporation organized to construct or operate a public improvement wholly within the state;

(f) "State agency" means a department, board, bureau, commission, agency or other division of state government;

(g) "Applicant" means a state agency, municipal corporation, public authority, public benefit corporation, or the highest official thereof.

2. An applicant which is authorized to and employs police OR CORRECTION officers may apply to the commissioner for reimbursement of

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

LBD04217-01-9

funds expended for the purchase of vests for eligible police OR CORRECTION officers.

S 2. Subdivision 4-a of section 837-d of the executive law, as added by chapter 555 of the laws of 1988, is amended to read as follows:

4-a. An applicant for reimbursement pursuant to this section shall report the name of each eligible police OR CORRECTION officer for whom reimbursement is sought. The applicant shall report whether such eligible police OR CORRECTION officer or officers have, at any time during the ten years immediately preceding the application for reimbursement, been provided with any other vest for which reimbursement pursuant to this section was provided, the date of any such prior reimbursement and any other information that the commissioner may require for accurate record-keeping and accountability and for evaluation of performance, wear and officer use of vests.

S 3. Paragraph (b) of subdivision 6 of section 837-d of the executive law, as amended by chapter 555 of the laws of 1988, is amended to read as follows:

(b) the [ballistic] THREAT specifications which the vest or any part thereof must be capable of defeating which shall include, but not be limited to, the ballistic specifications of any firearms considered to be standard issue to eligible police OR CORRECTION officers;

S 4. Subdivision 6-a of section 837-d of the executive law, as added by chapter 555 of the laws of 1988, is amended to read as follows:

6-a. In the evaluation of an application for reimbursement, the commissioner shall, at the request of the applicant, give consideration to the ballistic specifications of any firearm or firearms considered by the applicant to be standard issue to its police OR CORRECTION officers.

S 5. Subdivisions 8 and 9 of section 837-d of the executive law, as added by chapter 84 of the laws of 1984, are amended to read as follows:

8. Neither the state nor the applicant or any employee thereof shall be liable to a police OR CORRECTION officer or officer's heirs, executors, administrators or assigns, for the death of or injury to the officer resulting from any defect or deficiency in a vest for which reimbursement is made pursuant to this section.

9. A police OR CORRECTION officer who suffers an injury or death as a result of the officer's failure to wear a vest for which reimbursement is made pursuant to this section, and officer's heirs, executors, administrators or assigns shall not suffer any loss or be denied any benefit or right to which they are otherwise entitled; provided, however, that nothing contained herein shall prevent the officer from being subject to a disciplinary proceeding for failure to obey a lawful order of a superior officer requiring the officer to wear a vest.

S 6. Subdivision 12 of section 837-d of the executive law, as added by chapter 555 of the laws of 1988, is amended to read as follows:

12. The commissioner shall establish and maintain a record containing the name of each eligible police OR CORRECTION officer who receives a vest for which reimbursement has been provided pursuant to this section, the applicant to whom reimbursement for such vest is provided, the date on which such reimbursement was provided and any other information that the commissioner may require for accurate record-keeping and accountability and for evaluation of performance, wear and officer use of vests.

S 7. Subdivision 13 of section 837-d of the executive law, as added by chapter 84 of the laws of 1984, is amended to read as follows:

13. Nothing in this section shall be deemed to supersede the provisions of section three of chapter eight hundred seventy-six of the

laws of nineteen hundred eighty applicable to members of the division of state police or to alter a valid labor-management agreement covering employees of the state serving in police OR CORRECTION officer positions in the security services negotiating unit established pursuant to article fourteen of the civil service law which is in effect on the effective date of this section.

S 8. This act shall take effect immediately, provided, however, that rules and regulations required by this act to be adopted by the commissioner of the division of criminal justice services shall be adopted no later than the first day of January next succeeding the date on which it shall have become a law.