STATE OF NEW YORK

7511--A

2017-2018 Regular Sessions

IN ASSEMBLY

April 28, 2017

Introduced by M. of A. PRETLOW, BYRNE -- read once and referred to the Committee on Governmental Employees -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to including assistant wardens as eligible members for performance of duty disability retirement benefits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions a, b and paragraph 2 of subdivision d of section 63-b of the retirement and social security law, as added by chapter 639 of the laws of 1999, are amended to read as follows:

a. A member employed by a county shall be eligible for a performance of duty disability retirement if the county elects to make the benefits provided herein available, as provided for in subdivision d of this section, and such member is a sheriff, deputy sheriff, undersheriff, **assistant warden** or correction officer.

b. Any sheriff, deputy sheriff, undersheriff, **assistant warden** or correction officer as defined in subdivision a of this section, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any inmate or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this title, subject to the provisions of section sixty-four of this title.

2. The performance of duty disability retirement as defined in subdivisions b and c of this section shall be available only to sheriffs, deputy sheriffs, undersheriffs**, assistant wardens** and correction officers whose employer elects to provide such benefits by adopting a resol-

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

LBD02321-03-7

ution to such effect and filing a certified copy thereof with the comptroller. Such resolution shall be accompanied by the affidavit of the chief executive officer of the county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.

§ 2. Subdivisions a and f of section 607-c of the retirement and social security law, subdivision a as added by chapter 639 of the laws of 1999 and subdivision f as added by chapter 521 of the laws of 2014, are amended to read as follows:

a. Any sheriff, deputy sheriff, undersheriff**, assistant warden** or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in a county which makes an election pursuant to subdivision d of such section sixty-three-b, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of any act of any inmate or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

f. Any sheriff, deputy sheriff, undersheriff, **assistant warden** or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in Westchester county, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an intentional or reckless act of any civilian visiting, or otherwise present at, an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

§ 3. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to the appropriation requirement of section 25 of the retirement and social security law.

§ 4. This act shall take effect immediately.

FISCAL NOTE.--This bill will grant coverage under a 75% of pay performance of duty disability benefit for assistant wardens whose employers already have elected to provide this benefit for their sheriff, undersheriff, deputy sheriffs and correction officers.

If this bill is enacted, the increase in the annual contributions of such affected counties will depend on the current salary and plan coverage of the affected members in its employ. For the fiscal year ending March 31, 2018, the additional annual cost, expressed as a percentage of annual pay of the affected members, will be 2.1% of pay for tiers 3, 4 and 5, and 1.9% of pay for tier 6. In future years, this annual cost will vary as the billing rates of these plans change.

There would also be a one-time past service cost of 12.6% of the affected wardens' annual billing salaries. This past service cost would be shared by the State of New York and the participating employers in the New York State and Local Employees' Retirement System.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2016 actuarial valuation. Distributions and other statistics can be found in the 2016

Report of the Actuary and the 2016 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 and 2016 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, 2016 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 estimate, dated January 30, 2017, and intended for use only during the 2017 Legislative Session, is Fiscal Note No. 2017-41, prepared by the Actuary for the New York State and Local Retirement System.