STATE OF NEW YORK

8381--A

IN SENATE

May 4, 2018

Introduced by Sens. GALLIVAN, MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to a school resource officer program and providing school resource officer security protection aid (Part A); to amend the criminal procedure law, in relation to peace officers who are retired police officers employed by a school district as a school resource officer (Part B); and to amend the retirement and social security law, in relation to annual earnings limitations for retired police officers employed as school resource officers (Part C)

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

Section 1. This act enacts into law components of legislation relating to school safety. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part as set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The education law is amended by adding a new section 2801-c to read as follows:

§ 2801-c. New York state school resource officer program. 1. For purposes of this section, the term "school resource officer" shall mean a school resource officer, school safety officer, school security officer, or any other substantially similar position or office, that is designed to provide improved public safety and/or security on school

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

LBD15468-04-8

grounds. Such school resource officer may be a retired police officer, a retired state trooper, a retired deputy sheriff, a state trooper, a police officer in the active duty service of a town, city or village, or a deputy sheriff from a county sheriff's department.

2. Any public, nonpublic or charter school, or a board of cooperative educational services, may employ, in either the classified or unclassified service, any school resource officer for the purpose of providing improved public safety and/or security on school grounds. Any such public, nonpublic or charter school, or a board of cooperative educational services, may also contract with the state of New York, or a county, city, town or village, for the provision of a state trooper, police officer or deputy sheriff, to serve as a school resource officer, for the purpose of providing improved public safety and/or security on school grounds. A school district, nonpublic school, charter school, or a board of cooperative educational services, shall be authorized to employ or contract for as many school resource officers as such district deems necessary.

3. It shall be the primary role of the school resource officer to provide improved public safety and/or security on school grounds. In addition, to this primary role, school resource officers also may serve additional roles, including but not limited to:

(a) Proposing and enforcing policies and administrative procedures related to school safety;

(b) Utilizing technology in the implementation of a comprehensive safety program;

(c) Serving as a liaison with other school officials and other community agencies, including but not limited to, other law enforcement entities, courts, health care entities, and mental health entities;

(d) Proposing and implementing strategies concerning prevention, response and recovery efforts for incidents and/or emergency situations occurring on school grounds and/or involving students, faculty, administration or visitors to the school;

(e) Proposing and assisting in the execution of school emergency drills and proposing and assisting in the creation of school safety plans;

(f) Providing educational and mentoring services to students;

(g) Assisting in the design, explanation and enforcement of school safety and security policies and procedures; and

(h) Performing such other and further roles, responsibilities and activities as the school district may deem appropriate and proper for a law enforcement officer to perform, in order to advance the security, safety and well-being of students, faculty, administration and visitors to the school district's schools, transportation vehicles and school grounds.

4. Such school resource officer may carry and possess firearms during the course of their duties at such school district, nonpublic school, charter school, or a board of cooperative educational services, but nothing in this subdivision shall be deemed to authorize such school resource officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

§ 2. Subparagraph 1 of paragraph d of subdivision 4 of section 1950 of the education law, as amended by chapter 474 of the laws of 1996, is amended and a new subparagraph 1-a is added to read as follows:

(1) Aidable shared services. At the request of component school districts, and with the approval of the commissioner, provide any of the

following services on a cooperative basis: school nurse teacher, attendance supervisor, supervisor of teachers, dental hygienist, psychologist, **school resource officer, as such term is defined in section twenty-eight hundred one-c of this chapter,** teachers of art, music, physical education, career education subjects, guidance counsellors, operation of special classes for students with disabilities, as such term is defined in article eighty-nine of this chapter; pupil and financial accounting service by means of mechanical equipment; maintenance and operation of cafeteria or restaurant service for the use of pupils and teachers while at school, and such other services as the commissioner may approve. Such cafeteria or restaurant service may be used by the community for school related functions and activities and to furnish meals to the elderly residents of the district, sixty years of age or older. Utilization by elderly residents or school related groups shall be subject to the approval of the board of education. Charges shall be sufficient to bear the direct cost of preparation and serving of such meals, exclusive of any other available reimbursements.

(1-a) Notwithstanding any other provision of law, rule, or regulation to the contrary, school resource officers may be requested by charter schools and school districts for up to six days per week throughout the entire school year.

§ 3. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding two new subparagraphs 12 and 13 to read as follows:

(12) To enter into contracts with charter schools to provide school resource officers, as such term is defined in section twenty-eight hundred one-c of this chapter, provided that the costs of such school resource officers shall be aidable pursuant to subdivision five of this section to the same extent and on the same basis as costs allocated to a component school district, and further provided that the aid ratio shall be the aid ratio for the public school district where the charter school is located, and further provided that charter schools shall not be liable for payment of administrative expenses as defined in paragraph b of this subdivision.

(13) To enter into contracts with non-component school districts including city school districts of cities with one hundred twenty-five thousand inhabitants or more, to provide school resource officers, as such term is defined in section twenty-eight hundred one-c of this chapter, provided that the costs of such school resource officers shall be aidable pursuant to subdivision five of this section to the same extent and on the same basis as costs allocated to a component school district, and further provided that non-component school districts shall not be liable for payment of administrative expenses as defined in paragraph b of this subdivision.

§ 4. The education law is amended by adding a new section 3038 to read as follows:

§ 3038. Grants for school resource officers. 1. For purposes of this section, school resource officers shall have the same meaning as defined in section twenty-eight hundred one-c of this chapter.

2. Nonpublic schools shall, upon application, be reimbursed by the department for the salaries of school resource officers. Each school which seeks a reimbursement pursuant to this section shall submit to the office of religious and independent schools an application therefor, together with such additional documents as the commissioner may reasonably require, at such times, in such form and containing such information as the commissioner may prescribe by regulation. Applications for reimbursement pursuant to this section must be received by August first

of each year for schools to be reimbursed for the salaries of eligible school resource officers in the prior year.

3. The commissioner may promulgate any rules or regulations necessary to carry out the provisions of this section.

§ 5. This act shall take effect immediately.

PART B

Section 1. Section 2.10 of the criminal procedure law is amended by adding a new subdivision 85 to read as follows:

85. Retired police officers employed by a school district, nonpublic school, charter school, or a board of cooperative educational services, as a school resource officer; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

§ 2. This act shall take effect immediately.

PART C

Section 1. Section 212 of the retirement and social security law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding the provisions of subdivisions one and two of this section, such annual earnings limitations for a retired police officer employed by a school district or a board of cooperative educational services, in either the classified or unclassified service as a school resource officer, school safety officer, school security officer or any other substantially similar position or office that is designed to provide safety and/or security on school grounds, provided that such retired police officer is duly qualified, competent and physically fit for performance of the duties of the position in which he or she is to be employed as determined by the school district or board of cooperative educational services and is properly certified where such certification is required, shall be fifty thousand dollars for the year two thousand eighteen and thereafter.

§ 2. This act shall take effect immediately.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

This bill will allow retired police officers who are employed by a school district or board of cooperative education services as a school resource officer, school safety officer, school security officer or any other substantially similar position with an annual salary of $50,000 of less and continue to receive their full retirement benefit. Currently the salary limit is $30,000.

If this bill is enacted, insofar as it will affect the New York State and Local Police and Fire Retirement System (PFRS), we expect few retirees to be affected. There would be negligible additional annual costs. However, if large numbers of retirees are hired into such positions, there would be additional annual costs which would be shared by the state of New York and all of the participating employers in the PFRS.

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, 2017 actuarial valuation. Distributions and other statistics can be found in the 2017 Report of the Actuary and the 2017 Comprehensive Annual Financials Report.

The actuarial assumptions and methods used are described in the 2015, 2016, and 2017 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, 2017 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 April 23, 2018, and Intended for use only during the 2018 Legislative Session, is Fiscal Note No. 2018-92, prepared by the Actuary for the New York State and Local Retirement System.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

SUMMARY OF BILL: With respect to the New York City Retirement Systems and Pension Funds (NYCRS), this proposed legislation would amend provisions of the Education Law and Retirement and Social Security Law (RSSL) Section 212 to create the position of School Resource Officer, and increase the post-retirement earnings limit of NYCRS retirees who retired from eligible law enforcement positions and return to public service to perform school safety or security functions as School Resource Officers.

Effective Date: Upon enactment.

IMPACT ON PENSION PAYMENTS: Retirees who return to public service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn in retirement an amount not exceeding a specific dollar limit in each calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is reached, the retiree's retirement allowance is suspended for the remainder of that calendar year. Generally, there are no earnings limitations in, or following, the calendar year in which the retiree attains age 65.

Currently, the Section 212 post-retirement earnings limitation in effect for calendar year 2007 and each year thereafter is $30,000. Under the proposed legislation, the RSSL Section 212 post-retirement public service earnings limitation would be increased to $50,000 per calendar year for eligible NYCRS retirees who rejoin public service at School Resource Officers.

The total amount of RSSL Section 212 retirement allowance suspensions, given certain RSSL Section 212 limits, are contingent upon both individual post-retirement earnings and individual annual retirement allowances. Therefore, for illustrative purposes only, the table below presents the estimated additional retirement allowances paid (i.e. those benefits that would not be subject to suspension), if this proposed legislation is enacted, for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts. The illustration and cost analyses below do not include potential costs associated with new non-retiree hires to the position of School Resource Officer, or potential costs associated with appointing NYCRS disability retirees to such position.

ILLUSTRATIVE TABLE OF ADDITIONAL RETIREMENT ALLOWANCES PAID IF RSSL SECTION 212 LIMIT IS RAISED FROM $30,000 TO $50,000

Annual Retirement Allowance	Annual Post-Retirement Earnings in Calendar Year		
	$40,000	$50,000	$60,000
$30,000	$ 7,500	$12,000	$10,000

$40,000	$10,000	$16,000	$13,333
$50,000	$12,500	$20,000	$16,667
$60,000	$15,000	$24,000	$20,000
$70,000	$17,500	$28,000	$23,333

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: In accordance with the Administrative Code of the City of New York (ACCNY) Section 13-638.2(k-2), new Unfunded Accrued Liability (UAL) attributable to benefit changes are to be amortized as determined by the Actuary but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. However, since changes in the applicable retirement allowances paid to NYCRS retired members under this proposed legislation are not known in advance, the increase in pension payments due to this legislation would be treated as an actuarial loss. These actuarial losses would be amortized over a 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments.

The number of NYCRS retirees who could potentially be impacted by this proposed legislation cannot be readily determined. However, the Actuary believes the increase in pension payments, if the proposed legislation is enacted, would be approximately $1.5 million to $2.0 million per year for each 100 School Resource Officer positions created for eligible NYCRS service retirees. This would result in an increase in annual employer contributions of $180,000 to $240,000 compounded each year (e.g. $240,000 in the first year, $480,000 in the second year, $720,000 in the third year, etc.) for 14 years and then will remain level thereafter, assuming 100 School Resource Officers are employed each year. Future years' costs would depend on factors such as, but not limited to, the number of retirees that benefit under the legislation and the amount of their earnings and retirement allowances.

CONTRIBUTION TIMING: For purposes of this Fiscal Note, it is assumed that the change in the UAL would be reflected for the first time in the June 30, 2019 actuarial valuations of NYCRS. Under the OYLM, the first fiscal year in which these changes in benefits would impact employer contributions would be Fiscal Year 2021.

OTHER COSTS: Not measured in this Fiscal Note are any possible increased administrative costs attributable to enactment of the proposed legislation.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, illustrative examples with various salary and retirement allowance amounts have been provided above.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30, 2017 (Lag) actuarial valuation used to determine the Preliminary Fiscal Year 2019 employer contributions of NYCRS. Please note these assumptions and methods are subject to change as this valuation is not considered final until the end of the Fiscal Year 2019.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974 (ERISA), a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained

herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2018-49, dated August 3, 2018 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund, and the New York City Fire Pension Fund. This estimate is intended for only during the 2018 Legislative Session.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts.