STATE OF NEW YORK

3676--A

2019-2020 Regular Sessions

IN SENATE

February 12, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil service law, the retirement and social security law and the criminal procedure law, in relation to transferring the regional state park police to the division of state police; and to repeal certain provisions of the parks, recreation and historic preservation law, relating thereto

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

Section 1. Transfer of functions. Notwithstanding the provisions of any law to the contrary, all of the duties, functions and powers of the office of parks, recreation and historic preservation, in relation to the duties, functions and powers of the regional state park police, are hereby transferred, assigned to, and assumed by the division of state police and the superintendent thereof as may be applicable.

§ 2. Transfer of employees. Upon the effective date of this act, the commissioner of the office of parks, recreation and historic preservation shall certify to the superintendent of state police a list of the names and titles of all individuals in the several permanent positions within the regional state park, and shall cause copies of such certified list, and copies of the text of this act, to be publicly and conspicuously posted in the headquarters office of the regional state park police. Eligible employees who successfully complete a background investigation shall be appointed to the division of state police by the superintendent within ninety days after the superintendent's receipt of the certified list. Those employees who fail to complete successfully a background investigation will be excluded from employment with the divi-

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

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sion of state police and placed on a preferred re-employment list with the state. The superintendent of state police shall be charged generally with the duty and shall have the power to classify and reclassify all member positions in the division of state police, subject to the approval of the director of the budget. Individuals who have successfully completed probation in the positions of regional state park police sergeant, lieutenant, captain and major shall be appointed to the position of technical sergeant in the division of state police. No individual transferred to the division of state police pursuant to this act shall suffer a reduction in salary.

The superintendent of state police, shall be charged generally with the duty and shall have the power to allocate and reallocate to an appropriate salary grade specified in section 215 of the executive law, all member positions in the division of state police, subject to the approval of the director of the budget. The superintendent of state police shall allow employees transferred pursuant to this act credit for all of the annual leave, sick leave, or personal leave standing to their credit at the time of the transfer, but not in excess of the maximum accumulation of such leave permitted by the division. Seniority for the employees transferred pursuant to this act, for the purpose of determining vacation usage and certain work assignments among all members of the division of state police, shall be from the effective date of the transfer of functions effected by this act, and within such transfer group seniority shall be as among themselves from the original date of permanent appointment as regional state park police officers. For the purpose of qualifying as eligible for competitive examinations in the division, employees who transfer pursuant to this section shall meet the eligibility requirements as specified in the rules and regulations of the division of state police except that those employees who transfer pursuant to this section who, on the effective date of the transfer of functions affected by this act, completed a minimum of four years of permanent service in one or more of said titles, shall be eligible to compete in the next scheduled promotional examination for the title of sergeant, and shall not be required to meet the three-year member service requirement or the one-year probationary training term as required by such rules and regulations.

§ 3. Transfer of facilities, records, vehicles and equipment. The commissioner of the office of parks, recreation and historic preservation shall transfer and deliver to the superintendent of state police all facilities, vehicles, books, papers, records and equipment of the regional state park police, to the division of state police so as to enable the division of state police to carry out the transferred functions set out in section one of this act.

§ 4. Completion of unfinished business. Any business or other matter undertaken or commenced by the office of parks, recreation and historic preservation pertaining to or connected with the functions, powers, obligations and duties transferred and assigned pursuant to this act to the division and superintendent of state police, and pending on the effective date of this act, may be conducted and completed by the division and superintendent of state police in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the office of parks, recreation and historic preservation.

§ 5. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the office of parks, recreation and historic preservation pertaining to the functions and powers transferred and assigned pursuant to this act, in force at the

time of such transfer and assumption, shall continue in force and effect as rules, regulations, acts, orders, determinations and decisions of the division of state police until duly modified or abrogated by the superintendent of state police.

§ 6. Terms occurring in laws, contracts and other documents. Whenever the office of parks, recreation and historic preservation is referred to or designated in any law contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the regional state park police as continued in the division of state police.

§ 7. Pending actions or proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the office of parks, recreation and historic preservation pertaining to the regional state park police shall be affected by this act, but the same may be prosecuted or defended in the name of the superintendent or division of state police. In all such actions and proceedings, the division of state police or the superintendent upon application to the court, shall be substituted as a party.

§ 8. Transfer of appropriations. All appropriations made to the office of parks, recreation and historic preservation relating to the regional state park police, to the extent of remaining unexpended balances, shall be transferred by the comptroller to and made available for use by the division of state police, subject to the approval of the director of the budget, for the payment of liabilities previously incurred by the functions transferred pursuant to this act. Payments for liabilities for expenses of personal service, maintenance and operation previously incurred by the transfer of functions and for liabilities incurred and to be incurred shall be made on vouchers or certificates approved by the superintendent of state police on audit and warrant of the comptroller.

§ 9. Transfer of assets and liabilities. All assets and liabilities of the regional state park police shall be transferred to and assumed by the division of state police.

§ 10. Subdivision 3 of section 58 of the civil service law, as amended by chapter 561 of the laws of 2015, is amended to read as follows:

3. As used in this section, the term "police officer" means a police officer in the department of environmental conservation, the state university police, [~~a member of the regional state park police~~] or a police force, police department, or other organization of a county, city, town, village, housing authority, transit authority or police district, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but shall not include any person serving as such solely by virtue of his or her occupying any other office or position, nor shall such term include a sheriff, under-sheriff, commissioner of police, deputy or assistant commissioner of police, chief of police, deputy or assistant chief of police or any person having an equivalent title who is appointed or employed to exercise equivalent supervisory authority.

§ 11. Paragraphs (a) and (b) of subdivision 4 of section 58 of the civil service law, as amended by chapter 561 of the laws of 2015, are amended to read as follows:

(a) Any person who has received provisional or permanent appointment in the competitive class of the civil service as a police officer of [~~the regional state park police,~~] the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing author-

ity, transit authority or police district shall be eligible to resign from any police force or police department, and to be appointed as a police officer in the same or any other police force or police department without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such second or subsequent appointment, provided such second or subsequent appointment occurs within thirty days of the date of resignation.

(b) Any person who has received permanent appointment in the competitive class of the civil service as a police officer of [~~the regional state park police,~~] the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department and, subject to such civil service rules as may be applicable, shall be eligible for reinstatement in the same police force or police department or in any other police force or police department to which he or she was eligible for transfer, without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such reinstatement, provided such reinstatement occurs within one year of the date of resignation.

§ 12. Paragraph 1 of subdivision c of section 381-b of the retirement and social security law, as amended by chapter 581 of the laws of 2001, is amended to read as follows:

(1) Police service. In computing the years of total creditable service in such division, full credit shall be given and full allowance shall be made for service rendered as a police officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund and for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this [~~chapter~~] **article** provided, however, that full credit pursuant to the provisions of such section shall mean only such service as would be creditable service pursuant to the provisions of section three hundred eighty-three or section three hundred eighty-three-a or three hundred eighty-three-b enacted by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six of this [~~chapter~~] **title** or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the division of state police **or who transferred to the division of state police pursuant to the chapter of the laws of two thousand twenty that amended this paragraph and who retired on or after the effective date of such chapter**.

§ 13. Paragraph 5 of subdivision b of section 381-b of the retirement and social security law, as added by chapter 435 of the laws of 1997, is amended to read as follows:

(5) Notwithstanding the provisions of this subdivision, members transferred to the division of state police pursuant to [~~a~~] chapter **four hundred thirty-five** of the laws of nineteen hundred ninety-seven **or the chapter of the laws of two thousand twenty that amended this paragraph**, upon retirement shall receive either the allowances provided by this subdivision or those provided under the retirement system to which they

participated prior to such transfer whichever allowance shall be the higher.

§ 14. Paragraph 3 of subdivision e of section 363-b of the retirement and social security law, as added by chapter 435 of the laws of 1997, is amended to read as follows:

3. Notwithstanding the provisions of this subdivision, a member transferred to the division of state police pursuant to [~~a~~] chapter **four hundred thirty-five** of the laws of nineteen hundred ninety-seven **or the chapter of the laws of two thousand twenty that amended this paragraph** who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurred prior to such transfer, shall be eligible to file for the disability retirement benefits attributable to the plan applicable to such member before the transfer. In the case of a member transferred to the division pursuant to said chapter who files for a disability retirement under this section for a physical or mental incapacity attributable to an injury or incident which occurs after such transfer, for the purposes of calculating service credit required by subparagraph (b) of paragraph two of subdivision b of this section, service in the capital police force **or the regional state park police** in the office of general services shall be considered service in the division.

§ 15. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act.

§ 16. Construction with other laws. The provisions of this act shall supersede any inconsistent provisions of any other law.

§ 17. Subdivision 4 of section 9.05 of the parks, recreation and historic preservation law is REPEALED.

§ 18. Section 13.17 of the parks, recreation and historic preservation law is REPEALED.

§ 19. Paragraph (e) of subdivision 34 of section 1.20 of the criminal procedure law, as amended by chapter 662 of the laws of 1972, is amended to read as follows:

(e) A sworn officer of an authorized police department of an authority [~~or a sworn officer of the state regional park police in the office of parks and recreation~~];

§ 20. Severability. If any part, section, subdivision, paragraph, subparagraph, clause, item, sentence or other part of this act, or the application thereof, to any individual person or set of circumstances, shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the section, subdivision, paragraph, subparagraph, clause, item, sentence or other part of this act directly involved in such holding, or to the specific person and/or set of circumstances involved therein.

§ 21. This act shall take effect immediately.

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

This bill would transfer members of the Regional State Park Police to the division of State Police. In conjunction with the transfer, members would be entitled to all the rights, benefits, and privileges afforded State Troopers under section 381-b of the Retirement and Social Security Law (RSSL), as if all service credited as a Regional State Park Police Officer was earned as a State Police Officer. Transferred members would be entitled to service retirement benefits of 1/2 of final average salary (FAS) upon completion of 20 years of creditable service along with

1/60 of FAS for each year of creditable service beyond 20 years, not to exceed 12 such years. Currently, Regional State Park Police are entitled to service retirement benefits of 1/2 of FAS upon completion of 25 years of creditable service along with 1/60 of FAS for each year of creditable service beyond 25 years, not to exceed 7 such years.

If this bill is enacted during the 2020 legislative session, we anticipate that there will be an increase of approximately $1.3 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salaries of affected members change.

In addition to the annual contributions discussed above, we estimate there will be an immediate past service cost of approximately $16.7 million, which would be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2021.

This proposal is expected to affect 284 active members earning a salary of approximately $21.6 million as of March 31, 2019.

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, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated March 12, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-84, prepared by the Actuary for the New York State and Local Retirement System.