

# STATE OF NEW YORK

6242--A

2019-2020 Regular Sessions

## IN ASSEMBLY

March 4, 2019

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- 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 establishing disability retirement benefits for correction officers, correction supervisors, deputy sheriff patrols and deputy sheriff patrol supervisors who suffer any condition or impairment of health caused by methicillin resistant staphylococcus aureus (MRSA) or Staph/MRSA

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

1 Section 1. The retirement and social security law is amended by adding  
2 a new section 605-f to read as follows:

3 § 605-f. Disability retirement for correction officers, correction  
4 supervisors, deputy sheriff patrols and deputy sheriff patrol supervi-  
5 sors. a. A member employed as a correction officer, correction supervi-  
6 sor, deputy sheriff patrol or deputy sheriff patrol supervisor shall be  
7 entitled to a disability retirement allowance, if, at the time applica-  
8 tion therefor is filed, such member is physically incapacitated for  
9 performance of duty as a result of methicillin resistant staphylococcus  
10 aureus (MRSA) or Staph/MRSA while so employed and as a result of his or  
11 her employment.

12 b. Notwithstanding any provision of this chapter or of any general,  
13 special or local law to the contrary, any correction officer, correction  
14 supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor  
15 who is diagnosed with methicillin resistant staphylococcus aureus (MRSA)  
16 or Staph/MRSA, resulting in disability to such member, presently  
17 employed, and who shall have sustained such disability while so  
18 employed, shall have such diagnosis be presumptive evidence that such  
19 disability was incurred in the performance and discharge of duty, unless  
20 the contrary be proven by competent evidence; provided, however, that

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

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prior to entry into service, such correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor successfully passed a physical examination which failed to disclose evidence of any methicillin resistant staphylococcus aureus (MRSA) or Staph/MRSA.

c. The annual retirement allowance payable shall be equal to three-quarters of his or her final average salary.

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

§ 3. This act shall take effect immediately.

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

This bill would allow certain members of the New York State and Local Employees' Retirement System (ERS) employed as correction officers, correction supervisors, deputy sheriff patrol, or deputy sheriff patrol supervisors to receive a performance of duty disability benefit of 75% of final average salary if he or she is disabled due to job related contraction of methicillin resistant staphylococcus aureus (MRSA) or Staph/MRSA. There will be no reduction for any benefits received under Worker's Compensation. The provisions of Section 25 of the Retirement and Social Security Law (RSSL) will not apply.

If this bill is enacted, it would lead to more disabilities being classified as "in performance of duty". The cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable.

Benefit		Ordinary	In Performance	
without enactment:	None	Disability	of Duty Disability	Service
Cost for	9.5 times	5.5 times		2.5 times
revised benefit:	salary	salary	3 times salary	salary

The number of members and retirees who could be affected by this legislation cannot be readily determined. All costs arising from this bill would be shared by the State of New York and all of the participating employers in the ERS.

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, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 May 13, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-115, prepared by the Actuary for the New York State and Local Retirement System.