STATE OF NEW YORK

4574--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. ABBATE, GRIFFIN -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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:

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

§ 605-g. Disability retirement for correction officers, correction supervisors, deputy sheriff patrols and deputy sheriff patrol supervisors. a. A member employed as a correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor shall be entitled to a disability retirement allowance, if, at the time application therefor is filed, such member is physically incapacitated for performance of duty as a result of methicillin resistant staphylococcus aureus (MRSA) or Staph/MRSA while so employed and as a result of his or her employment.

b. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor who is diagnosed with methicillin resistant staphylococcus aureus (MRSA) or Staph/MRSA, resulting in disability to such member, presently employed, and who shall have sustained such disability while so employed, shall have such diagnosis be presumptive evidence that such

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

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disability was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence; provided, however, that 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 (NYSLERS) 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.

Insofar as this bill would affect the NYSLERS, if this legislation is enacted during the 2022 legislative session, it would lead to more disabilities being classified as "in performance of duty". The cost will depend upon the applicant's age, service, salary, plan, and any benefit type otherwise payable.

Benefit without enactment:	None	Ordinary Disability	Performance of Duty Disability	Service
Cost for proposed benefit:	11 times salary	6 times salary	3.5 times salary	3 times salary

The exact number of current members as well as future members and retirees who could be affected by this legislation cannot be readily determined. All costs will be shared by the State of New York and the local participating employers in the NYSLERS.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 December 17, 2021, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-30, prepared by the Actuary for the New York State and Local Retirement System.