STATE OF NEW YORK

9032

IN ASSEMBLY

January 21, 2022

Introduced by M. of A. JACKSON -- read once and referred to the Committee on Judiciary

AN ACT to amend the general municipal law, the administrative code of the city of New York, the executive law, the court of claims act, and the retirement and social security law, in relation to requiring damages for tortious acts of police officers to be paid from money in such police officer's retirement account

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

Section 1. The section heading, subdivision 1 and paragraph a of subdivision 6 of section 50-j of the general municipal law, the section heading and subdivision 1 as amended by chapter 843 of the laws of 1975 and paragraph a of subdivision 6 as added by chapter 691 of the laws of 1986, are amended and a new subdivision 7 is added to read as follows:

Liability of police officers for [~~negligence~~] **tortious acts** in the performance of duty. 1. [~~Notwithstanding the provisions of any general, special or local law, charter or code to the contrary, every city, county, town, village, authority or agency shall be liable for, and shall assume the liability to the extent that it shall save harmless, any~~] **Any** duly appointed police officer of [~~such~~] **a** municipality, authority or agency **shall be liable** for any negligent act or tort[~~, provided~~] **committed by such police officer while** such police officer, at the time of the negligent act or tort complained of, was acting in the performance of his **or her** duties and within the scope of his **or her** employment.

a. In addition to the requirements of subdivision one of this section, upon discretionary adoption of a local law, ordinance, resolution, rule or regulation, any city, county, town, village, authority, or agency shall provide for the defense of any civil action or proceeding brought against a duly appointed police officer of such municipality, authority or agency [~~and shall indemnify and save harmless such police officer from any judgment of a court of competent jurisdiction whenever such action, proceeding or judgment is for punitive or exemplary damages, arising out of a negligent act or other tort of such police officer committed while in the proper discharge of his duties and within the~~

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

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~~scope of his employment~~]. Such municipality, authority or agency is hereby authorized and empowered to purchase insurance to cover the cost of such defense and indemnification.

7. Any duly appointed police officer of any city, county, town, village, authority or agency may be found liable for negligent acts committed by such police officer while such police officer was acting in the performance of his or her duties and within the scope of his or her employment. If such police officer is found liable for such negligent acts, any damages awarded to the plaintiff shall be paid out from the money in such police officer's retirement account.

§ 2. The administrative code of the city of New York is amended by adding a new section 7-213 to read as follows:

§ 7-213 Claims for tortious acts of police. Where a judgment or settlement for any negligent act or other tort committed by a police officer of the city results in a payment of monetary damages to the claimant, such monetary damages shall be paid out from the money in such police officer's retirement account.

§ 3. The executive law is amended by adding a new section 235 to read as follows:

§ 235. Civil actions against the state police. Any member of the state police may be found liable for negligent acts or other torts committed by such member while such member was acting in the performance of his or her duties and within the scope of his or her employment. If such member is found liable for such negligent acts, any damages awarded to the plaintiff shall be paid out from the money in such member's retirement account.

§ 4. The court of claims act is amended by adding a new section 20-b to read as follows:

§ 20-b. Civil actions against a member of the state police. Any individual member of the state police may be found liable for negligent acts or other torts committed by such member while such member was acting in the performance of his or her duties and within the scope of his or her employment. If such member is found liable for such negligent acts or other torts and a judgment is entered against such member, any damages awarded to the plaintiff shall be paid out from the money in such member's retirement account and shall not be paid by the comptroller. Any judgment entered against the division of state police as a whole shall be paid by the comptroller.

§ 5. Section 351 of the retirement and social security law is amended by adding a new subdivision f to read as follows:

f. No member shall withdraw any accumulated contributions if a judgment has been entered against such member for negligent acts or other torts committed by such member while such member was acting in the performance of his or her duties and within the scope of his or her employment except to pay any damages that such member has been ordered to pay. Such prohibition on withdrawals shall continue until such damages are paid in full, at which time such member may withdraw any accumulated contributions in accordance with the provisions of this section.

§ 6. The administrative code of the city of New York is amended by adding a new section 13-638.7 to read as follows:

§ 13-638.7 Withdrawals from a police pension fund. No police officer of the city shall withdraw any accumulated contributions from a police pension fund under chapter two of this title if a judgment has been entered against such officer for negligent acts or other torts committed by such officer while such officer was acting in the performance of his

or her duties and within the scope of his or her employment except to pay any damages that such officer has been ordered to pay. Such prohibition on withdrawals shall continue until such damages are paid in full.

§ 7. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.