STATE OF NEW YORK

6453--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 11, 2023

Introduced by M. of A. BYRNES, BRABENEC, CHANG, NORRIS, MORINELLO -- read once and referred to the Committee on Education -- recommitted to the Committee on Education 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 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:

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

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§ 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 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 title,** 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 14 and 15 to read as follows:

(14) 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 title, 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.

(15) 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 title, 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 3039 to read as follows:

§ 3039. 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 87 to read as follows:

87. 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 twenty-five and thereafter.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. 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.

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

Insofar as it would affect the New York State and Local Retirement System (NYSLRS), this bill would allow retired police officers who are

employed by a school district as a school resource officer, school safety officer, school security officer, or any other substantially similar position with an annual salary of $50,000 or less to continue to receive their full retirement benefit beginning with calendar year 2025. Currently, the salary limit is $35,000.

Pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), if enacted during the 2024 Legislative Session, the direct cost incurred would be the retiree's post-retirement earnings more than $35,000 each calendar year, not to exceed the full pension benefit paid by the NYSLERS during that period.

In the NYSLERS, this benefit improvement will be funded by including a separate itemized charge on the New York State annual invoice, equal to the cost quoted above, plus interest.

The number of members and retirees who could be affected by this legislation cannot be readily determined. For each retiree hired pursuant to this proposal, an annual cost of $15,000 is expected.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 February 26, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-55, prepared by the Actuary for the New York State and Local Retirement System.