STATE OF NEW YORK

7252

2023-2024 Regular Sessions

IN ASSEMBLY

May 16, 2023

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to overtime ceilings for correction officers who are members of certain retirement plans

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

Section 1. Section 501 of the retirement and social security law is amended by adding a new subdivision 29 to read as follows:

29. "Correction officer" shall mean, notwithstanding any provision of law to the contrary, any member who is employed by a county and is charged with the duty of maintaining the custody and supervision of persons detained or confined in a local correctional facility as defined in subdivision sixteen of section two of the correction law.

§ 2. Subdivision 24 of section 501 of the retirement and social security law is amended by adding a new paragraph (g) to read as follows:

(g) Notwithstanding the provisions of paragraph (c) and subparagraph (a) of paragraph (e) of this subdivision, commencing on January first, two thousand twenty-four "overtime ceiling" for any member who is employed as a correction officer shall mean the greater of: (i) the overtime ceiling as defined in this subdivision; or (ii) thirty percent of the regular compensation earned by and paid to such member by a public employer for such member's service as a correction officer.

§ 3. Section 601 of the retirement and social security law is amended by adding a new subdivision n to read as follows:

n. "Correction officer" shall mean, notwithstanding any provision of law to the contrary, any member who is employed by a county and, is charged with the duty of maintaining the custody and supervision of persons detained or confined in a local correctional facility as defined in subdivision sixteen of section two of the correction law.

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

LBD09748-03-3

§ 4. Subdivision l of section 601 of the retirement and social security law is amended by adding a new paragraph (e) to read as follows:

(e) Notwithstanding the provisions of paragraph (c) and subparagraph one of paragraph (d) of this subdivision, commencing on January first, two thousand twenty-four "overtime ceiling" for any member who is employed as a correction officer shall mean the greater of: (i) the overtime ceiling as defined in this subdivision; or (ii) thirty percent of the regular compensation earned by and paid to such member by a public employer for such member's service as a correction officer.

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

§ 6. This act shall take effect immediately.

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

This bill would change the allowable overtime compensation included in the final average salary calculation beginning January 1, 2024 to thirty percent of a member's annual wages if greater than the limits currently defined in section 601 of the Retirement and Social Security Law for local county correction officers. Current limits were set at $15,000 at the inception of each tier, with the Tier 5 limit increasing 3% annually and the Tier 6 limit increasing annually with inflation.

If this bill is enacted during the 2023 legislative session, we anticipate that there will be an increase in the annual contributions of the counties employing these correction officers of 0.4% of salary for Tier 5 and 0.9% of salary for Tier 6 for the fiscal year ending March 31, 2024.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately 5.00% of the affected correction officers' compensation which will be borne by the counties employing these correction officers as a one-time payment. This estimate assumes that payment will be made on February 1, 2024.

The exact number of members who would be affected by this cannot be readily determined.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 April 17, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-120, prepared by the Actuary for the New York State and Local Retirement System.