STATE OF NEW YORK

7252--A

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 -- 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 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) For a county that has elected to provide the benefits of this paragraph by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, notwithstanding the provisions of paragraph (c) and subparagraph (a) of paragraph (e) of this subdivision, commencing on January first, two thousand twenty-five "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:

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

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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.

§ 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) For a county that has elected to provide the benefits of this paragraph by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, notwithstanding the provisions of paragraph (c) and subparagraph one of paragraph (d) of this subdivision, commencing on January first, two thousand twenty-five "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. All past service costs incurred with implementing the provisions of this act shall be borne by any county that elects to provide the benefits provided by this act.

§ 7. This act shall take effect immediately.

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

This bill would allow county employers to elect to provide correction officers with an increased limit on the overtime compensation included in the final average salary calculation beginning January 1, 2025. The improved limit would be thirty percent of a member's annual wages, if greater than the limit. 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 2024 Legislative Session, we anticipate that there will be an increase in the annual contributions of any electing county of 0.4% of affected correction officers' salary for Tier 5 and 1.0% of affected correction officers' salary for Tier 6 for the fiscal year ending March 31, 2025. In future years, this cost will vary as the billing rates and salary of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately 5.4% of affected correction officers' salary, which will be borne by any electing county as a one-time payment. This estimate assumes that payment will be made on February 1, 2025.

Further, we anticipate administrative costs to implement the provisions of this legislation.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined. Prior to electing to provide these benefits, an eligible county would be required to submit a roster of individuals in covered titles to the New York State and Local Retirement System. This roster would be used to develop an exact cost for the individual county electing to provide these benefits.

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 28, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-20, prepared by the Actuary for the New York State and Local Retirement System.