

**HOME RULE REQUEST RESOLUTION NO. 94 - 2022**

RESOLVED, that the Westchester County Board of Legislators approves the making of a Home Rule Request in the following format:

*To the Legislature:*

Pursuant to Article IX of the Constitution, the County of Westchester requests the enactment of Assembly Bill No. 9670/Senate Bill No. 8448 entitled "AN ACT to amend the retirement and social security law, in relation to providing certain death benefits to correction officers, correction officer-sergeants, correction officer-captains, assistant wardens, associate wardens or wardens employed by Westchester county."

A necessity exists for the enactment of this legislation because the local government does not have the power to enact such legislation by local law.

Dated: *May 23*, 2022  
White Plains, New York

*Dee J. Moran*  
*Nancy E. Barr*  
*Margaret A. Cyto*  
*Robert J. Adin*  
*Colin J. Smith*

Committee on  
Legislation

Dated: May 23, 2022  
White Plains, New York

***The following members attended the meeting remotely, as per Chapter 1 of the New York State Laws of 2022 and Executive Order 11 and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.***

**Committee on Legislation**

A handwritten signature in cursive script, appearing to read "Cheryl".A handwritten signature in cursive script, appearing to read "Mary Jane Skimsky".

# STATE OF NEW YORK

9670

## IN ASSEMBLY

March 28, 2022

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

AN ACT to amend the retirement and social security law, in relation to providing certain death benefits to correction officers, correction officer-sergeants, correction officer-captains, assistant wardens, associate wardens or wardens employed by Westchester county

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

1 Section 1. Section 89-e of the retirement and social security law is  
2 amended by adding a new subdivision k to read as follows:

3 k. Notwithstanding any provision of law to the contrary, where a  
4 correction officer would have been entitled to retire pursuant to this  
5 section at the time of his or her death and where his or her death  
6 occurs on or after the effective date of the chapter of the laws of two  
7 thousand twenty-two that added this subdivision, the beneficiary or  
8 beneficiaries may elect to receive, in a lump sum, an amount payable  
9 which shall be equal to the pension reserve that would have been estab-  
10 lished had the member retired on the date of his or her death, or the  
11 value of the death benefit and the reserve-for-increased-take-home-pay,  
12 if any, whichever is greater.

13 § 2. The retirement and social security law is amended by adding a new  
14 section 606-c to read as follows:

15 § 606-c. Death benefits for correction officers employed by Westches-  
16 ter county. a. As used in this section, the term "correction officer"  
17 shall mean a person employed by the Westchester county correction  
18 department with a title of correction officer, correction officer-ser-  
19 geant, correction officer-captain, assistant warden, associate warden or  
20 warden.

21 b. Notwithstanding any provision of law to the contrary, where a  
22 correction officer would have been entitled to a service retirement  
23 benefit at the time of his or her death and where his or her death  
24 occurs on or after the effective date of the chapter of the laws of two  
25 thousand twenty-two that added this section, the beneficiary or benefi-  
26 ciaries may elect to receive, in a lump sum, an amount payable which

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

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1 shall be equal to the pension reserve that would have been established  
2 had the member retired on the date of his or her death, or the value of  
3 the death benefit and the reserve-for-increased-take-home-pay, if any,  
4 whichever is greater.

5 § 3. All past service costs associated with implementing the  
6 provisions of this act shall be borne by the county of Westchester and  
7 may be amortized over a period of ten years.

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

11 § 5. This act shall take effect immediately.

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

This bill would modify the in-service death benefit for tiers 2 through 6 Westchester County correction officers. The in-service death benefit will be the value of the pension reserve as if the member had retired on their date of death.

If this bill is enacted during the 2022 legislative session, we anticipate that there will be an increase of approximately \$93,000 in the annual contributions of Westchester County for the fiscal year ending March 31, 2023. 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 \$681,000 which will be borne by Westchester County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2023. If Westchester County elects to amortize this cost over a 10-year period, the cost for the first year including interest would be \$87,000.

These estimated costs are based on 776 affected members employed by the State of New York, with annual salary of approximately \$88.3 million as of March 31, 2021.

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 February 25, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-77 Revised, prepared by the Actuary for the New York State and Local Retirement System.



**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

**BILL NUMBER:** A9670

**SPONSOR:** Abbate

**TITLE OF BILL:**

An act to amend the retirement and social security law, in relation to providing certain death benefits to correction officers, correction officer-sergeants, correction officer-captains, assistant wardens, associate wardens or wardens employed by Westchester county

**PURPOSE::**

The purpose of this bill is to provide a death gamble amortization for correctional officers employed by Westchester County.

**SUMMARY OF PROVISIONS::**

Section 1 adds a new subdivision k to Section 89-E of the Retirement and Social Security Law that allows correction officer beneficiaries to elect to receive, in a lump sum, an amount payable equal to the pension reserve that would have been established had the correction officer retired on the date of their death, or the value of the death benefit and the reserve-for-increased-takehome-pay, if any, whichever is greater.

Section 2 adds a new Section 606-C to the Retirement and Social Security Law that defines death benefits for corrections officers employed by Westchester County.

Section 3 states that all past service costs associated with implementing this bill shall be borne by Westchester County and may be amortized over a period of 10 years.

Section 4 states that none of the provisions of this bill shall be subject to the appropriation requirement of Section 25 of the Retirement and Social Security Law.

Section 5 is the effective date.

**JUSTIFICATION:**

This bill provides Westchester County correction officers with death gamble benefits. The death gamble was enacted for New York law enforcement officers, firefighters and teachers in 2000 (Chapter 554 of the Laws of 2000) to incentivize public employees who wish to work past retirement age by providing that, should the employee pass away before taking retirement, his or her family shall be able to receive the full value of his or her pension benefit. In extending this benefit to Westchester County correction officers, this bill helps both officers and local governments as the County is then able to retain correction officers who may have retired instead of working past normal retirement age.

**LEGISLATIVE HISTORY::**

New bill.

**STATE AND LOCAL FISCAL IMPLICATIONS:**

See the fiscal note.

**EFFECTIVE DATE::**

This act shall take effect immediately.

STATE OF NEW YORK )  
 ) ss.  
COUNTY OF WESTCHESTER )

I HEREBY CERTIFY that I have compared the foregoing Resolution, Resolution No. 94 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of said original Resolution, which was duly adopted by the Westchester County Board of Legislators, of said County on May 23, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 24<sup>th</sup> day of May, 2022.



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Malika Vanderberg

The Clerk of the Westchester County  
Board of Legislators

County of Westchester, New York

