

3701

2009-2010 Regular Sessions

I N   S E N A T E

March 30, 2009

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Introduced by Sens. ADDABBO, MAZIARZ, DIAZ, HUNTLEY, MONSERRATE, ONORATO, OPPENHEIMER, SAMPSON, SAVINO, STACHOWSKI, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to creating the volunteer peace officer benefit law, and to amend the executive law and the general municipal law, in relation to volunteer peace officer programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 64-C of the consolidated laws is added to read as follows:

VOLUNTEER PEACE OFFICERS' BENEFIT LAW

		S
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ARTICLE I

SHORT TITLE; PURPOSE; DEFINITIONS

Section 1. Short title.

2. Purpose.

3. Definitions.

S 1. Short title. This chapter shall be known and may be cited as the "volunteer peace officers' benefit law".

S 2. Purpose. In recognition of the unselfish service given to the people of New York state by these volunteer peace officers, government has undertaken to provide for them and their families some measure of protection against loss from death or injuries in the line of duty. This chapter establishes a system of benefits for volunteer peace officers

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

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1 and provides for the administration of such system by the workers'  
2 compensation board and the chairman of such board.

3 It is hereby declared that this chapter is intended to effectuate the  
4 objects and purposes of section eighteen of article one of the state  
5 constitution and that the relationship between the political subdivision  
6 or law enforcement agency liable for benefits under this chapter and a  
7 volunteer peace officer entitled to such benefits is that of employer  
8 and employee within the meaning of such provision of the state constitu-  
9 tion.

10 S 3. Definitions. As used in this chapter:

11 1. "Volunteer peace officer" means an active volunteer member of a law  
12 enforcement agency as specified on a list regularly maintained by that  
13 agency for the purpose of this chapter.

14 2. "Law enforcement agency" means any police department, sheriff's  
15 office, local child protective services agency, society for the  
16 prevention of cruelty to animals, or any agency authorized by law or by  
17 a government agency to engage in or supervise the prevention, detection,  
18 investigation, or prosecution of any violation of criminal law.

19 3. "Line of duty" means the performance by a volunteer as a volunteer  
20 peace officer of the duties and activities for which the volunteer peace  
21 officer does not receive any remuneration or a gratuity and shall be  
22 deemed to include any date of injury as determined by the workers'  
23 compensation board pursuant to the provisions of section forty-one of  
24 this chapter. The following shall not be deemed to be remuneration or a  
25 gratuity: reimbursement of expenses for meals, lodging and actual and  
26 necessary travel; the receipt of a mileage allowance in lieu of travel  
27 expense; and the acceptance of transportation, food, drink, shelter,  
28 clothing and similar items while on duty or engaged in such activities.

29 4. "Injury" means any disablement of a volunteer peace officer that  
30 results from services performed in line of duty and such disease or  
31 infection as may naturally and unavoidably result from an injury.

32 5. "Child" includes a posthumous child, a child legally adopted prior  
33 to the injury of the volunteer peace officer; and a step-child or  
34 acknowledged child born out of wedlock dependent upon the deceased  
35 volunteer peace officer.

36 6. "Surviving spouse" means the legal wife of a deceased male volun-  
37 teer peace officer or the legal husband of a deceased female volunteer  
38 peace officer, as the case may be, but shall not include a spouse who  
39 has abandoned the deceased. The term "abandoned", as used in this subdi-  
40 vision, means such an abandonment as would be sufficient under section  
41 two hundred of the domestic relations law to sustain a judgment of sepa-  
42 ration on that ground.

43 7. "Dependent" means a surviving spouse entitled to receive benefits  
44 under this chapter, whether or not actually dependent upon a volunteer  
45 peace officer, unless a contrary meaning is clearly intended.

46 8. "Earning capacity", except as herein provided, means:

47 a. The ability of a volunteer peace officer to perform on a five day  
48 or six day basis either the work usually and ordinarily performed by him  
49 in his remunerated employment or other work which for any such worker  
50 would be a reasonable substitute for the remunerated employment in which  
51 he was employed at the time of his injury, or

52 b. The ability of a volunteer peace officer to perform on a five day  
53 or six day basis either the work usually and ordinarily performed by him  
54 in the practice of his profession or in the conduct of his trade or  
55 business, including farming, and from which he could derive earned  
56 income or other work which for any such person would be a reasonable

1 substitute for the profession, trade or business in which he was engaged  
2 at the time of his injury.

3 Every volunteer peace officer shall be considered to have earning  
4 capacity and, if the provisions of paragraphs a and b of this subdivi-  
5 sion are not applicable in any given case, the workers' compensation  
6 board, in the interest of justice, shall determine the reasonable earn-  
7 ing capacity of the volunteer peace officer with due regard to the  
8 provisions of such paragraphs and the work he reasonably could be  
9 expected to obtain and for which he is qualified by age, education,  
10 training and experience. The ability of a volunteer peace officer to  
11 perform the duties of a volunteer peace officer, or to engage in activ-  
12 ities incidental thereto, may be considered in determining loss of earn-  
13 ing capacity, but the inability of a volunteer peace officer to perform  
14 such duties or to engage in such activities shall not be a basis of  
15 determining loss of earning capacity.

16 9. "State" means all territory within the boundaries of the state of  
17 New York, including territory which has been or may hereafter be ceded  
18 to the federal government or to the United Nations and territory within  
19 the boundaries of Indian reservations.

20 10. "Political subdivision" means a county, city, town, village or  
21 fire or law enforcement agency.

22 11. "State fund" means the state insurance fund provided for in arti-  
23 cle six of the workers' compensation law.

24 12. "County plan of self-insurance" means a county plan of self-insu-  
25 rance under article five of the workers' compensation law.

26 13. "Insurance carrier" means the state fund, the stock corporations,  
27 mutual corporations, group self-insurers or reciprocal insurers  
28 described in subdivision nine of section thirty of this chapter, a coun-  
29 ty plan of self-insurance, or a self-insuring political subdivision.  
30 For purposes of this chapter, a nonprofit property/casualty insurance  
31 company which is licensed pursuant to subsection (b) of section six  
32 thousand seven hundred four of the insurance law shall be deemed a stock  
33 corporation and a nonprofit property/casualty insurance company which is  
34 licensed as a reciprocal insurer pursuant to subsection (c) of section  
35 six thousand seven hundred four of the insurance law shall be deemed a  
36 reciprocal insurer.

37 14. "Fund raising activity" means a fund raising activity described in  
38 subdivision one of section two hundred four-a of the general municipal  
39 law, except that for the purposes of paragraph k of subdivision one of  
40 section five of this chapter it shall not include competitive events in  
41 which volunteer peace officers are competitors, such as baseball,  
42 basketball, football, bowling, tugs of war, donkey baseball, donkey  
43 basketball, boxing, wrestling, contests between bands or drum corps, or  
44 other competitive events in which volunteer peace officers are compet-  
45 itors and which involve physical exertion on the part of the compet-  
46 itors. Such term "fund raising activity" shall not include drills,  
47 parades, inspections, reviews, competitive tournaments, contests or  
48 public exhibitions, described in paragraphs e and h of subdivision one  
49 of section five of this chapter, even though prizes are awarded at such  
50 events.

## 51 ARTICLE II

### 52 COVERAGE AND BENEFITS

53 Section 5. Coverage.

54 6. Volunteer peace officers' benefits; general.

55 7. Death benefits.

56 7-a. Date of death benefits.

8. Permanent total disability benefits.
9. Temporary total disability benefits.
10. Permanent partial disability benefits.
11. Temporary partial disability benefits.
- 11-a. Repair or replacement of prosthetic devices.
- 11-b. Hazardous exposures.
12. Nonschedule adjustments.
13. Reclassification of disabilities.
14. Previous disability.
15. Expense for rehabilitating injured volunteer peace officers.
16. Treatment and care.
17. Aliens.
18. Disposition of accrued benefits upon death.
19. Exclusiveness of remedy.
20. Other remedies of volunteer peace officers; subrogation.
21. Assistance to other states, the Dominion of Canada, property ceded to the federal government and to Indian reservations.
22. Revenues and benefits from sources other than this chapter.
23. Assignments, exemptions.
24. Waiver agreements void.
25. Limitation of time.

S 5. Coverage. 1. The duties and activities in relation to which benefits shall be paid and provided pursuant to this chapter are:

a. Necessary travel to, working at, and necessary travel returning from an accident, alarm of accident, or other duty to which his law enforcement agency, or any unit thereof, either has responded or would be required or authorized to respond, including necessary travel during such work or incidental thereto.

b. While, within the state, personally assisting another law enforcement agency or any unit thereof, including, after his services have been duly accepted, necessary travel to and returning from such work and necessary travel during such work or incidental thereto.

c. While, within the state and pursuant to orders or authorization, performing duties at the law enforcement facility, or elsewhere, directly related to: (1) the prevention of accidents or other disasters, or (2) the delivery of emergency health care.

d. While, within this country or in Canada and pursuant to orders or authorization, instructing or being instructed in lawful duties, attending a training school or course of instruction for volunteer peace officers, or attending or participating in any noncompetitive training program, including necessary travel directly connected therewith.

e. While, within the state, any adjoining state or in Canada and pursuant to orders or authorization, attending or participating in any drill, parade, funeral, inspection or review in which his law enforcement agency, or any unit thereof, is engaged, including necessary travel directly connected therewith.

f. While, within the state and pursuant to orders or authorization, attending or working at meetings of his law enforcement agency, or any organized unit thereof, at the law enforcement agency or other regular or special headquarters of the department, company or unit, including necessary travel directly connected therewith other than travel to or returning from such meetings.

1 g. While, within the state and pursuant to orders or authorization,  
2 working in connection with the construction, testing, inspection, repair  
3 or maintenance of (1) the law enforcement agency facility and the  
4 fixtures, furnishings and equipment thereof, and (2) the law enforcement  
5 agency vehicles, apparatus and equipment used by the law enforcement  
6 agency, or other unit thereof, including necessary travel directly  
7 connected therewith other than travel to or returning from such work.

8 h. While, within the state, any adjoining state or in Canada and  
9 pursuant to orders or authorization, practicing for, or participating as  
10 a contestant or an official in, any competitive tournament, contest or  
11 public exhibition conducted for peace officers which is intended to  
12 promote the efficiency of the law enforcement agency or any unit there-  
13 of, including necessary travel directly connected therewith other than  
14 travel to and returning from such practice. The actual rendition of the  
15 law enforcement agency or other emergency service shall not be deemed  
16 "practicing" within the meaning of this paragraph.

17 i. While, pursuant to orders or authorization, engaged in the  
18 inspection of vehicles and apparatus prior to delivery under a contract  
19 of purchase, or performing duties in relation to the delivery thereof,  
20 including necessary travel directly connected therewith.

21 j. While, within this country or Canada and pursuant to orders or  
22 authorization, attending a convention or conference of volunteer peace  
23 officers as the authorized delegate or representative of his department,  
24 or any unit thereof, including necessary travel directly connected ther-  
25 ewith.

26 k. While, within the state and pursuant to orders or authorization,  
27 working in connection with a fund raising activity of his department,  
28 including necessary travel directly connected therewith, but shall not  
29 include competitive events in which volunteer peace officers are compet-  
30 itors, such as baseball, basketball, football, bowling, tugs of war,  
31 donkey baseball, donkey basketball, boxing, wrestling, contests between  
32 bands or drum corps, or other competitive events in which volunteer  
33 peace officers are competitors and which involve physical exertion on  
34 the part of the competitors.

35 2. Benefits shall not be paid and provided pursuant to this chapter in  
36 the following instances:

37 a. Work or service rendered by a volunteer peace officer while on a  
38 leave of absence pursuant to the general municipal law or pursuant to  
39 any other general, special or local law, charter or ordinance or pursu-  
40 ant to the constitution, by-laws, rules or regulations applicable to the  
41 department of which he is a member.

42 b. Practice for and participation in any recreational, social, or fund  
43 raising activity other than a fund raising activity for which coverage  
44 is provided under paragraph k of subdivision one of this section.

45 c. Work or service rendered by a volunteer peace officer while  
46 suspended from duty pursuant to any general, special or local law, char-  
47 ter or ordinance or pursuant to the constitution, by-laws, rules or  
48 regulations applicable to the department of which he is a member.

49 d. Work or service not rendered as a volunteer peace officer, but  
50 rendered as an officer, official or employee of a public corporation or  
51 any special district thereof, whether with or without remuneration, even  
52 though by law a requirement for such office, position or employment  
53 shall be that such officer, official or employee shall have been or must  
54 be a volunteer peace officer.

55 e. Work or service not rendered as a volunteer peace officer, but  
56 rendered in the course of his employment for a private employer.

1 f. Work, service or activities in which the volunteer peace officer  
2 has been ordered not to participate. This subdivision shall not be  
3 deemed to enumerate all of the activities engaged in by volunteer peace  
4 officers for which mandatory coverage is not provided by this chapter,  
5 or to prohibit any of the activities described in this subdivision, or  
6 to prevent the securing of insurance pursuant to section four thousand  
7 two hundred thirty-seven of the insurance law to cover volunteer peace  
8 officers when engaged in activities other than those for which mandatory  
9 coverage is provided by this chapter.

10 S 6. Volunteer peace officers' benefits; general. If a volunteer peace  
11 officer dies from the effects of injury in the line of duty, or if such  
12 a peace officer shall be injured in the line of duty, benefits shall be  
13 paid and provided pursuant to this chapter, except that there shall be  
14 no liability for such benefits when the injury has been solely occa-  
15 sioned by intoxication of the volunteer peace officer while acting in  
16 line of duty or by the wilful intention of the volunteer peace officer  
17 to bring about the injury or death of himself or another.

18 S 7. Death benefits. In the event of death the benefit shall be known  
19 as a death benefit and shall be paid as follows:

20 1. The reasonable funeral expenses of the deceased volunteer peace  
21 officer shall be paid in an amount not exceeding three thousand dollars.

22 If such funeral expenses shall have been paid by a person entitled to  
23 benefits under this section or by others, the funeral expenses awarded  
24 shall be made payable to such beneficiary or others; otherwise they  
25 shall be payable to the undertaker who provided the burial. Funeral  
26 expenses shall be awarded in all death cases.

27 2. If there be a surviving spouse, to such spouse the lump sum of five  
28 thousand dollars, but if there be no surviving spouse, then to the exec-  
29 utor or administrator of the estate of the volunteer peace officer, the  
30 lump sum of five thousand dollars. Such sum shall be in addition to any  
31 other benefits provided in this chapter and shall not be diminished by  
32 benefits paid to the volunteer peace officer during his lifetime. Any  
33 money paid to an executor or administrator pursuant to the provisions of  
34 this subdivision shall be distributed in the manner provided by the laws  
35 of this state for the distribution of the personal property of an intes-  
36 tate decedent.

37 3. In the case of a death of a volunteer peace officer, on or after  
38 the effective date of this chapter, if there be a surviving spouse and  
39 no surviving child of the deceased under the age of eighteen years or  
40 under the age of twenty-five years who is enrolled as a full time  
41 student in any accredited educational institution and no surviving child  
42 of any age dependent blind or physically disabled, to such spouse three  
43 hundred dollars for each week until remarried, and upon such remarriage  
44 the lump sum of thirty-one thousand two hundred dollars.

45 4. If any person under the age of eighteen years is an inmate of any  
46 institution and a public charge upon the state or any political subdivi-  
47 sion, the benefits allowed hereunder shall be payable to the state or  
48 political subdivision to the extent of the reasonable charges for care  
49 and maintenance, during the continuance as a public charge in such  
50 institution of such beneficiary and until he or she shall have attained  
51 the age of eighteen years. Any sum or sums remaining after such payments  
52 shall be distributed as provided in this section.

53 5. The term "dependent blind or physically disabled", as used in this  
54 section in relation to dependent children, means totally blind or phys-  
55 ically disabled dependent children whose disablement is total and perma-  
56 nent.

1 6. All questions of dependency shall be determined as of the time of  
2 the injury.

3 7. The workers' compensation board may in its discretion require the  
4 appointment of a guardian for the purpose of receiving benefits payable  
5 to a minor child or a dependent blind or physically disabled child. In  
6 the absence of such a requirement by such board the appointment of a  
7 guardian for such purposes shall not be necessary.

8 8. In the case of a death of a volunteer peace officer, on or after  
9 the effective date of this chapter, that results from services performed  
10 in the line of duty, if there be a surviving spouse and a surviving  
11 child or children of the deceased under the age of eighteen years or  
12 under the age of twenty-five years who is enrolled as a full time  
13 student in any accredited educational institution or a surviving child  
14 or children of any age dependent blind or physically disabled, to such  
15 spouse one hundred sixty-five dollars for each week until remarried, and  
16 the additional amount of one hundred thirty-five dollars for each week  
17 for such child or children, share and share alike, until the age of  
18 eighteen years or under the age of twenty-five years who is enrolled as  
19 a full time student in any accredited educational institution or until  
20 the removal of the dependency of the blind or physically disabled child  
21 or children.

22 In the case of the death of such surviving spouse, the surviving child  
23 or children of the deceased peace officer, at the time under eighteen  
24 years of age or under the age of twenty-five years who is enrolled as a  
25 full time student in any accredited educational institution or dependent  
26 through mental or physical infirmity, shall have his or her or their  
27 benefit increased to three hundred dollars for each week, share and  
28 share alike, and the same shall be payable until he or she or they shall  
29 reach the age of eighteen years or twenty-five years, as the case may  
30 be, or until such dependent blind or physically disabled condition shall  
31 have been removed. Upon the remarriage of such surviving spouse prior to  
32 the statutory termination of benefits to all such children, such spouse  
33 shall be paid the lump sum of seventeen thousand one hundred sixty  
34 dollars; and the surviving child shall continue to receive weekly  
35 payments of one hundred thirty-five dollars; if there be two surviving  
36 children, each shall receive one hundred twelve dollars and fifty cents  
37 per week; and if there be more than two surviving children, they shall  
38 receive three hundred dollars per week, share and share alike; and the  
39 same shall be payable until he or she or they shall reach the age of  
40 eighteen years or twenty-five years, as the case may be, or until such  
41 dependent blind or physically disabled condition shall have been  
42 removed. Upon statutory termination of payments to all such children,  
43 the payments to the surviving spouse shall be increased to three hundred  
44 dollars for each week until such spouse remarries, and upon such remar-  
45 riage, such spouse shall be paid the lump sum of thirty-one thousand two  
46 hundred dollars. In no event shall the total amount payable for each  
47 week under this subdivision exceed three hundred dollars.

48 9. In the case of a death of a volunteer peace officer, on or after  
49 the effective date of this chapter, that results from services performed  
50 in the line of duty, if there be surviving a child or children of the  
51 deceased under the age of eighteen years or under the age of twenty-five  
52 years who is enrolled as a full time student in any accredited educa-  
53 tional institution or a dependent blind or physically disabled child or  
54 children of any age, but no surviving spouse, for the support of such  
55 child or children until the age of eighteen years or twenty-five years  
56 as the case may be, or until the removal of the dependency of such blind

1 or physically disabled child or children, three hundred dollars, share  
2 and share alike, for each week; provided that the total amount payable  
3 for each week under this subdivision shall not exceed three hundred  
4 dollars per week.

5 10. In the case of a death of a volunteer peace officer, on or after  
6 the effective date of this chapter, that results from services performed  
7 in the line of duty, if there be no surviving spouse or child of the  
8 deceased under the age of eighteen years or under the age of twenty-five  
9 years who is enrolled as a full time student in any accredited educa-  
10 tional institution or dependent blind or physically disabled child of  
11 the deceased of any age, then for the support of grandchildren or broth-  
12 ers and sisters under the age of eighteen years or under the age of  
13 twenty-five years who is enrolled as a full time student in any accred-  
14 ited educational institution if dependent upon the deceased at the time  
15 of the injury, one hundred twelve dollars and fifty cents for each week  
16 for the support of each such person until the age of eighteen years or  
17 twenty-five years as the case may be, and for the support of each parent  
18 or grandparent of the deceased, if dependent upon the deceased at the  
19 time of the injury, one hundred eighty dollars for each week during such  
20 dependency, but in no case shall the aggregate amount payable under this  
21 subdivision exceed three hundred dollars per week.

22 S 7-a. Date of death benefits. All weekly benefits payable under  
23 section seven of this article shall accrue as of the date of death of  
24 the volunteer peace officer. In the event that a person or persons enti-  
25 tled to weekly benefits shall die before a determination is made on the  
26 merits of their claim, and such determination on the merits is ultimate-  
27 ly in their favor, then all weekly benefits due from the date of death  
28 of the volunteer peace officer up to the date of death of the person or  
29 persons entitled to such weekly benefits shall be paid to the executor  
30 or administrator of the estate of such person or persons.

31 S 8. Permanent total disability benefits. In the case of total disa-  
32 bility adjudged to be permanent the volunteer peace officer shall be  
33 paid four hundred dollars for each week during the continuance thereof.  
34 Permanent total disability, within the meaning of this section, shall  
35 exist only if the earning capacity of the volunteer peace officer has  
36 been lost permanently and totally as the result of the injury. The loss  
37 of both hands, or both arms, or both feet, or both legs, or both eyes,  
38 or any two thereof, shall, in the absence of conclusive proof to the  
39 contrary, constitute permanent total disability, but in all other cases  
40 permanent total disability shall be determined in accordance with the  
41 facts. Notwithstanding any other provisions of this chapter, an injured  
42 volunteer peace officer disabled due to the loss or total loss of use of  
43 both eyes, or both hands, or both arms, or both feet, or both legs, or  
44 any two thereof shall not suffer any diminution of such weekly benefit  
45 by engaging in business or employment provided his or her weekly earn-  
46 ings or wages, when combined with his weekly benefit shall not be in  
47 excess of six hundred dollars; and further provided that the application  
48 of this section shall not result in reduction of benefits which an  
49 injured volunteer peace officer who is disabled due to the loss or total  
50 loss of use of both eyes, or both hands, or both arms, or both feet, or  
51 both legs, or any two thereof would otherwise be entitled to under any  
52 other provisions of this article.

53 S 9. Temporary total disability benefits. In the case of temporary  
54 total disability the volunteer peace officer shall be paid three hundred  
55 dollars for each week during the continuance thereof.



S 10. Permanent partial disability benefits. 1. In the case of disability partial in character, but permanent in quality, the volunteer peace officer, injured in the line of duty shall be paid one hundred fifty dollars for each week for the period specified in this subdivision as follows:

a. Loss of member.

Member lost	Number of weeks
Arm .....	312
Leg .....	288
Hand .....	244
Foot .....	205
Eye .....	160
Thumb .....	75
First finger .....	46
Great toe .....	38
Second finger .....	30
Third finger .....	25
Toe other than great toe .....	16
Fourth finger .....	15

If more than one phalange of a digit shall be lost, the period shall be the same as for the loss of the entire digit. If only the first phalange shall be lost, the period shall be one-half the period for loss of the entire digit. The period for loss or loss of use of two or more digits, or one or more phalanges of two or more digits, of a hand or foot, may be proportioned to the period for the loss of use of the hand or foot occasioned thereby, but shall not exceed the period for the loss of a hand or foot. If an arm or leg shall be amputated at or above the wrist or ankle, the period for such loss shall be in proportion to the period for the loss of the arm or leg. In the case of loss of binocular vision or of eighty per centum or more of the vision of an eye, the period shall be the same as for the loss of the eye.

b. Loss of hearing. In the case of the complete loss of the hearing of one ear, sixty weeks; for the loss of hearing of both ears, one hundred fifty weeks.

c. Total loss of use. In the case of permanent total loss of use of a member, the compensation shall be the same as for the loss of the member.

d. Partial loss or partial loss of use. Except as above provided in this subdivision, in the case of permanent partial loss or loss of use of a member, the period shall be for the proportionate loss or loss of use of the member. Compensation for permanent partial loss of use of an eye shall be awarded on the basis of uncorrected loss of vision or corrected loss of vision resulting from an injury which ever is greater.

e. Disfigurement. In the case of serious facial or head disfigurement, including a disfigurement continuous in length which is partly in the facial area and also extends into the neck region as described in this paragraph, the volunteer peace officer shall be paid in a lump sum a proper and equitable amount, which shall be determined by the workers' compensation board. If the earning capacity of the volunteer peace officer shall have been impaired, or may in the future be impaired, by any serious disfigurement in the region above the sterno clavicular articulations anterior to and including the region of the sterno cleido mastoid muscles on either side, the volunteer peace officer shall be paid in a lump sum a proper and equitable amount which shall be determined by such board. Two or more serious disfigurements, not continuous in length, resulting from the same injury, if partially in the facial

1 area and partially in such neck region, shall be deemed to be a facial  
2 disfigurement. An award, or the aggregate of the awards, to a volunteer  
3 peace officer under this paragraph shall not exceed twenty thousand  
4 dollars.

5 f. Total or partial loss or loss of use of more than one member. In  
6 any case in which there shall be a loss or loss of use of more than one  
7 member or parts of more than one member set forth above in paragraphs a  
8 through e, both inclusive, of this subdivision, but not amounting to  
9 permanent total disability, the periods for loss or loss of use of each  
10 such member or part thereof shall run consecutively.

11 g. Other cases. In all other cases of permanent partial disability the  
12 volunteer peace officer shall be paid for each week, during the contin-  
13 uance thereof, as follows:

14 (1) If the percentage of loss of earning capacity is seventy-five per  
15 centum, or greater, he or she shall be paid one hundred fifty dollars  
16 for each week.

17 (2) If the percentage of loss of earning capacity is fifty per centum,  
18 or greater, but less than seventy-five per centum, he or she shall be  
19 paid one hundred dollars for each week.

20 (3) If the percentage of loss of earning capacity is twenty-five per  
21 centum, or greater, but less than fifty per centum, he or she shall be  
22 paid thirty dollars for each week.

23 (4) If the percentage of loss of earning capacity is less than twen-  
24 ty-five per centum, he or she shall not be paid any weekly benefit.

25 Permanent partial disability, within the meaning of this paragraph,  
26 shall exist only if the earning capacity of the volunteer peace officer  
27 has been permanently and partially lost as the result of the injury. The  
28 workers' compensation board shall determine the degree of such disabili-  
29 ty and such board may reconsider such degree on its own motion or upon  
30 application of any party in interest.

31 2. An award made to a claimant under this section shall in case of  
32 death arising from causes other than the injury be payable to and for  
33 the benefit of the persons following:

34 a. If there be a surviving spouse and no child of the deceased under  
35 the age of eighteen years, to such spouse.

36 b. If there be a surviving spouse and surviving child or children of  
37 the deceased under the age of eighteen years, one-half shall be payable  
38 to the surviving spouse and the other half to the surviving child or  
39 children.

40 c. If there be a surviving child or children of the deceased under the  
41 age of eighteen years, but no surviving spouse, then to such child or  
42 children.

43 d. If there be no surviving spouse and no surviving child or children  
44 of the deceased under the age of eighteen years, then to such dependent  
45 or dependents as defined in section seven of this article, as directed  
46 by the workers' compensation board; and if there shall be no such depen-  
47 dents, then to the estate of such deceased in an amount not exceeding  
48 reasonable funeral expenses as provided in subdivision one of section  
49 seven of this article, or, if there be no estate, to the person or  
50 persons paying the funeral expenses of such deceased in an amount not  
51 exceeding reasonable funeral expenses as provided in such subdivision  
52 one.

53 S 11. Temporary partial disability benefits. In the case of temporary  
54 partial disability the volunteer peace officer shall be paid for each  
55 week during the continuance thereof, as follows:

1 1. If the percentage of loss of earning capacity is seventy-five per  
2 centum, or greater, he or she shall be paid one hundred fifty dollars  
3 for each week.

4 2. If the percentage of loss of earning capacity is fifty per centum,  
5 or greater, but less than seventy-five per centum, he or she shall be  
6 paid one hundred dollars for each week.

7 3. If the percentage of loss of earning capacity is twenty-five per  
8 centum, or greater, but less than fifty per centum, he or she shall be  
9 paid thirty dollars for each week.

10 4. If the percentage of loss of earning capacity is less than twenty-  
11 five per centum, he or she shall not be paid any weekly benefit.

12 Temporary partial disability, within the meaning of this section,  
13 shall exist only if the earning capacity of the volunteer peace officer  
14 has been temporarily and partially lost as the result of the injury. The  
15 workers' compensation board shall determine the degree of such disabili-  
16 ty and such board may reconsider such degree on its own motion or upon  
17 application of any party in interest.

18 S 11-a. Repair or replacement of prosthetic devices. If, as a result  
19 of services performed in line of duty, a volunteer peace officer damages  
20 or loses any prosthetic devices required to be worn or used by him,  
21 whether or not he is injured, such prosthetic device shall be repaired,  
22 or replaced in the discretion of the workers' compensation board, and  
23 necessary medical, surgical or other attendance or treatment, nurse and  
24 hospital service, in connection therewith shall be furnished, in the  
25 same manner as a prosthetic device would be furnished, replaced or  
26 repaired and treatment and care provided under the provisions of section  
27 sixteen of this article. Damage to or loss of a prosthetic device shall  
28 be deemed an injury, except that no disability benefits shall be payable  
29 with respect to such injury under sections eight, nine, ten and eleven  
30 of this article. The term "prosthetic device" as used in this section  
31 includes an artificial limb, artificial eye, eyeglasses, contact lens,  
32 hearing aid, denture or dental appliance or any surgical appliance  
33 required to be worn or used by the volunteer peace officer, but shall  
34 not include shoes or any other article considered as ordinary wearing  
35 apparel, whether or not specially constructed.

36 S 11-b. Hazardous exposures. If, as a result of services performed in  
37 line of duty, a volunteer peace officer is exposed to or comes in  
38 contact with any poisons, gases, x-rays, radium, radioactive materials  
39 or other potentially harmful substances or matter, the captain or other  
40 executive officer of the department, or law enforcement agency of which  
41 he is a member may authorize the volunteer peace officer to obtain such  
42 examinations, tests, treatment and care as are immediately necessary to  
43 determine whether he is injured. Any such authorization may be granted  
44 prior to the giving of a notice of injury under this chapter. In any  
45 such case, the volunteer peace officer shall be deemed to have been  
46 injured and shall be entitled to treatment and care and disability bene-  
47 fits as provided in this chapter.

48 S 12. Nonschedule adjustments. Notwithstanding any other provision of  
49 this chapter, in any case coming within the provisions of sections ten  
50 and eleven of this article, in which the right to benefits has been  
51 established and benefits have been paid for not less than three months,  
52 in which the continuance of disability cannot be ascertained with  
53 reasonable certainty, the workers' compensation board may, in the inter-  
54 est of justice, approve a nonschedule adjustment agreed to between the  
55 claimant and the political subdivision liable for the payment of bene-  
56 fits or its insurance carrier. The provisions of subdivision five-b of

1 section fifteen of the workers' compensation law shall apply in any such  
2 case.

3 S 13. Reclassification of disabilities. Subject to the limitations in  
4 section fifty-one of this chapter and in section one hundred twenty-  
5 three of the workers' compensation law as made applicable to this chap-  
6 ter by section fifty-seven of this chapter, the workers' compensation  
7 board may at any time, without regard to the date of the injury, upon  
8 its own motion, or on application of any party in interest, reclassify a  
9 disability upon proof that there has been a change in condition, or that  
10 the previous classification was erroneous and not in the interest of  
11 justice.

12 S 14. Previous disability. The fact that a volunteer peace officer has  
13 suffered previous disability or received benefits therefor as provided  
14 in the workers' compensation law, or this chapter shall not preclude him  
15 from benefits for a later injury nor preclude death benefits for death  
16 resulting therefrom; provided, however, that a volunteer peace officer  
17 who is suffering from a previous disability shall not receive benefits  
18 for a later injury in excess of the benefits allowed for such injury  
19 when considered by itself and not in conjunction with the previous disa-  
20 bility. Notwithstanding the foregoing provisions of this section, if a  
21 volunteer peace officer has previously incurred permanent partial disa-  
22 bility through the loss or loss of use of one hand, one arm, one foot,  
23 one leg, or one eye, and suffers the loss or loss of use of another such  
24 major member or eye, he may be adjudged permanently totally disabled and  
25 receive benefits for permanent total disability as provided in section  
26 eight of this article.

27 S 15. Expense for rehabilitating injured volunteer peace officers. A  
28 volunteer peace officer, who as a result of injury is or may be expected  
29 to be totally or partially incapacitated for a remunerative occupation  
30 and who, under the direction of the state education department is being  
31 rendered fit to engage in a remunerative occupation, may receive such  
32 additional financial benefit necessary for his rehabilitation as the  
33 workers' compensation board shall determine. Not more than thirty  
34 dollars per week of such additional amount shall be expended for mainte-  
35 nance. Such expense and such of the administrative expenses of the state  
36 education department as are properly assignable to the expenses of reha-  
37 bilitating such volunteer peace officers shall be paid out of the voca-  
38 tional rehabilitation fund created pursuant to subdivision nine of  
39 section fifteen of the workers' compensation law. Any such volunteer  
40 peace officer for the purposes of such fund shall be considered an  
41 employee of the political subdivision or law enforcement agency liable  
42 for the payment of benefits to such volunteer peace officer under this  
43 chapter and such "employer" or its insurance carrier, as the case may  
44 be, shall make the same financial contribution to such fund as required  
45 by subdivision nine of section fifteen of the workers' compensation law  
46 in every case of injury causing death of a volunteer peace officer in  
47 which there are no persons entitled to financial benefits under this  
48 chapter other than (1) funeral expenses and (2) the death benefit  
49 provided in subdivision two of section seven of this article.

50 S 16. Treatment and care. A volunteer peace officer injured in line of  
51 duty shall be entitled to receive medical, surgical, podiatric, chirop-  
52 ractic, psychological and other attendance and treatment, nurse and  
53 hospital service, medicine, crutches, artificial members, devices,  
54 appliances, and apparatus, including the replacement and repair thereof,  
55 for such period as the nature of the injury or the process of recovery  
56 may require and the political subdivision or law enforcement agency

liable for the payment of benefits to the volunteer peace officer under this chapter because of such injury shall be liable therefor and the cost thereof shall be audited, raised and paid as provided in section thirty of this chapter. The provisions of sections thirteen through thirteen-m, inclusive, and sections nineteen through nineteen-b, inclusive, of the workers' compensation law, to the extent that such provisions are not inconsistent with this chapter, shall be applicable in relation to any injured volunteer peace officer, political subdivision and third persons as fully as if set forth in this chapter.

S 17. Aliens. Financial benefits payable under this chapter to aliens not residents or about to become nonresidents of the United States or Canada shall be in the same amount as provided for residents, except that dependents in any foreign country shall be limited to surviving spouse and child or children, or, if there be no surviving spouse or child or children, to the surviving father or mother whom the volunteer peace officer has supported, either wholly or in part, for a period of one year prior to the date of the injury.

S 18. Disposition of accrued benefits upon death. Except as otherwise provided in section ten of this article, in the case of the death of an injured volunteer peace officer to whom there was due at the time of his death any benefits under the provisions of this chapter, the amount of such benefits shall be payable to the surviving spouse, if there be one, or, if none, to the surviving child or children of the deceased under the age of eighteen years, and if there be no surviving spouse or children, then to the dependents of such deceased or to any of them as the workers' compensation board may direct, and if there be no surviving spouse, children or dependents of such deceased, then to his estate. An award for disability may be made after the death of an injured volunteer peace officer.

S 19. Exclusiveness of remedy. The benefits provided by this chapter shall be the exclusive remedy of a volunteer peace officer, or his spouse, parents, dependents, next of kin, executor or administrator, or anyone otherwise entitled to recover damages, at common law or otherwise, for or on account of an injury to a volunteer peace officer in line of duty or death resulting from an injury to a volunteer peace officer in line of duty, as against (1) the political subdivision or law enforcement agency liable for the payment of such benefits, (2) the political subdivision regularly served by the law enforcement agency of which the volunteer peace officer is a member, whether or not pursuant to a contract for law enforcement services, even though any such political subdivision is not liable for the payment of such benefits in the circumstances, and (3) any person or company acting under governmental or statutory authority in furtherance of the duties or activities in relation to which any such injury resulted; provided, however, that the benefits provided by this chapter shall not be the exclusive remedy as against persons who, in the furtherance of the same duties or activities, are not similarly barred from recourse against the volunteer peace officer, or his executor or administrator.

S 20. Other remedies of volunteer peace officers; subrogation. The provisions of section twenty-nine of the workers' compensation law to the extent that such provisions are not inconsistent with the provisions of this chapter, shall be applicable as fully as if set forth in this chapter.

S 21. Assistance to other states, the Dominion of Canada, property ceded to the federal government and to Indian reservations. 1. Whenever a department in this state shall answer a call to furnish assistance to

1 any political subdivision or territory of another state of the United  
2 States or of the Dominion of Canada, or property ceded to the federal  
3 government, the provisions of this chapter shall apply with respect to  
4 the volunteer peace officers of such department, while such assistance  
5 is being rendered or while going to or returning from the place from  
6 where the assistance is to be or was rendered, to the same extent and in  
7 the same manner as if such service had been rendered in or for the area  
8 regularly served by such volunteer peace officer; provided, however,  
9 that there shall be deducted from any amounts payable under this chapter  
10 any amounts recoverable by or payable to any such volunteer peace offi-  
11 cer under the laws applicable in the political subdivision or territory  
12 for which the call for assistance was made.

13 2. The provisions of this chapter shall apply with respect to volun-  
14 teer peace officers of departments of other states of the United States  
15 and of the Dominion of Canada who render service in this state in answer  
16 to a call for assistance to the territory regularly served by a law  
17 enforcement agency described in subdivisions one through five, inclu-  
18 sive, of section thirty of this chapter and, for the purposes of deter-  
19 mining liability for benefits under this chapter, any such volunteer  
20 peace officer shall be considered as a volunteer member of the depart-  
21 ment of the territory for which service has been rendered in this state  
22 pursuant to a call for assistance; provided that the laws of the state  
23 served by such volunteer peace officers, departments or law enforcement  
24 agency, or of the Dominion of Canada, as the case may be, contain  
25 provisions under which benefits are granted in relation to volunteer  
26 peace officers of this state who are killed or injured when rendering  
27 service in such other states, or the Dominion of Canada, as the case may  
28 be, in answer to a call for assistance; provided, however, that there  
29 shall be deducted from any amounts payable under the provisions of this  
30 chapter to a volunteer peace officer of such other states or of the  
31 Dominion of Canada, any amounts recoverable by or payable to such volun-  
32 teer peace officer under the laws of the state served by such volunteer  
33 peace officer or of the Dominion of Canada, as the case may be.

34 3. Whenever a law enforcement agency in this state shall answer a call  
35 for assistance to be rendered to any part of an Indian reservation the  
36 provisions of this chapter shall apply with respect to the volunteer  
37 peace officers of such law enforcement agency or department, while such  
38 assistance is being rendered or while going to or returning from the  
39 place from where the assistance is to be or was rendered, to the same  
40 extent and in the same manner as if such service had been rendered in or  
41 for the area regularly served by such volunteer peace officers.

42 S 22. Revenues and benefits from sources other than this chapter. 1.  
43 Benefits, savings or insurance of the injured or deceased volunteer  
44 peace officer, or insurance carried for his benefit under subsection (a)  
45 of section four thousand two hundred thirty-seven of the insurance law,  
46 shall not be considered in determining the benefits to be paid and  
47 provided under this chapter, nor shall such benefits be diminished or  
48 reduced by reason of the payment to an injured volunteer peace officer  
49 of salary, wages or other remuneration by any political subdivision  
50 liable for the payment of such benefits.

51 2. Benefits received from any political subdivision pursuant to  
52 service award payments authorized by article eleven-AA of the general  
53 municipal law shall not be considered in determining the benefits to be  
54 paid and provided under this chapter.

55 S 23. Assignments, exemptions. Benefits payable under this article  
56 shall not be assigned, released or commuted, except as provided by this

chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Such benefits shall be paid only to volunteer peace officers or their dependents except as otherwise provided in this chapter.

S 24. Waiver agreements void. No agreement by a volunteer peace officer to waive his or her right to benefits under this chapter shall be valid.

S 25. Limitation of time. No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor so long as he has no committee or guardian.

### ARTICLE III

#### LIABILITY FOR BENEFITS; INSURANCE

Section 30. Liability for and payment of benefits.

31. The insurance contract.

32. Group insurance.

S 30. Liability for and payment of benefits. Except as otherwise provided in article five of the workers' compensation law and in section twenty-one of this chapter:

1. If at the time of injury the volunteer peace officer was a member of a law enforcement agency of a county, city, town, village or law enforcement agency, any benefit under this chapter shall be a county, city, town, village or law enforcement agency charge, as the case may be, and any claim therefor shall be audited in the same manner as other claims against the county, city, town, village or law enforcement agency and the amount thereof shall be raised and paid in the same manner as other county, city, town, village or law enforcement agency charges.

2. If at the time of injury the volunteer peace officer was a volunteer member of a law enforcement agency which uses volunteer peace officers, any benefit under this chapter shall be a city, village or law enforcement agency charge, as the case may be, and any claim therefor shall be audited in the same manner as other claims against the city, village or law enforcement agency and the amount thereof shall be raised and paid in the same manner as other city, village or law enforcement agency charges.

3. If at the time of injury the volunteer peace officer was a member of a law enforcement agency and located outside of a city, village or law enforcement agency any benefit under this chapter shall be a town charge and any claim therefor shall be audited and paid in the same manner as town charges and the amount thereof raised upon the property liable to taxation in such outside territory protected by such law enforcement agency in the same manner as town charges therein are raised.

4. If at the time of injury the volunteer peace officer was a member of a law enforcement agency operating in, or maintained jointly by two or more villages, or two or more towns, or two or more law enforcement agencies, any benefit under this chapter shall be a charge against such villages, towns or law enforcement agencies, in the proportion that the full valuation of taxable real estate in each bears to the aggregate full valuation of the taxable real estate of all such villages, towns or law enforcement agencies and the amount thereof shall be audited, raised and paid in the same manner as other village, town or law enforcement agency charges. Full valuation shall be determined by dividing the assessed valuations of taxable real estate of each such village, town or law enforcement agency as shown by the latest completed assessment roll of the village, town or law enforcement agency by the equalization rate

1 established by the authorized state agency or officer for such roll;  
2 provided, however, in a county having a county department of assessment  
3 the full valuation in towns and law enforcement agencies shall be deter-  
4 mined by applying the state equalization rate established for the town,  
5 or the town in which the law enforcement agency is located, to the  
6 appropriate portion of the last completed county roll.

7 5. Any political subdivision may finance the payment of any benefits  
8 to be paid and provided under this chapter by the issuance of serial  
9 bonds or capital notes pursuant to the local finance law unless it is  
10 required by some law, other than this chapter, to pay such benefits from  
11 current funds.

12 6. Any political subdivision may contract for insurance indemnifying  
13 against the liability imposed by this chapter and the cost of such  
14 insurance shall be audited, raised and paid in the same manner as bene-  
15 fits are required to be audited, raised and paid in this section.

16 7. Insurance authorized to be purchased pursuant to subdivision seven  
17 of this section may be secured from the state fund or any stock corpo-  
18 ration, mutual corporation, group self-insurers or reciprocal insurer  
19 authorized to transact the business of workers' compensation in this  
20 state. If such insurance is not secured, the political subdivision  
21 liable shall be deemed to have elected to be a self-insurer unless it is  
22 a participant in a county plan of self-insurance or its liability for  
23 benefits under this chapter is covered by a town's participation in a  
24 county plan of self-insurance as provided in subdivision nine of section  
25 sixty-three of the workers' compensation law. Every such self-insurer  
26 shall file with the chair of the workers' compensation board a notice of  
27 such election prescribed in form by such chair. For failure to file such  
28 notice within ten days after such election is made, the treasurer or  
29 other fiscal officer of such political subdivision shall be liable to  
30 pay to the chair of the workers' compensation board the sum of one  
31 hundred dollars as a penalty, to be transferred to the state treasury. A  
32 notice of election to be a self-insurer for compensation and benefits to  
33 volunteer peace officers under the provisions of the workers' compen-  
34 sation law and the general municipal law in effect prior to March first,  
35 in the year of the effective date of this chapter, which was filed prior  
36 to such date pursuant to the provisions of subdivision four of section  
37 fifty of the workers' compensation law as in effect prior to such date  
38 shall be deemed to be a notice of election filed under this section  
39 unless the chair of the workers' compensation board is notified to the  
40 contrary. The provisions of subdivision five of section fifty of the  
41 workers' compensation law shall be applicable to such self-insurers.

42 8. The governing board of a political subdivision liable for the  
43 payment of such benefits may authorize the treasurer or other fiscal  
44 officer thereof to pay the financial benefits provided for in this chap-  
45 ter to the person entitled thereto without waiting for an award in any  
46 case in the manner provided in section forty-nine of this chapter. The  
47 amount payable prior to an award pursuant to such authorization shall  
48 constitute a settled claim within the meaning of the local finance law.

49 9. Where a city, village, or town is furnished service by law enforce-  
50 ment agency, or any unit thereof pursuant to a contract entered into  
51 prior to the enactment date of this chapter with another city, village,  
52 law enforcement agency, having its headquarters outside the city,  
53 village or law enforcement agency receiving such service and the liabil-  
54 ity for benefits under this chapter in relation to volunteer peace offi-  
55 cers rendering such service pursuant to such contract on and after the  
56 effective date of this chapter is not covered pursuant to a county self-



1 insurance plan pursuant to section sixty-three of the workers' compen-  
2 sation law, the contract may be amended after a public hearing held in  
3 the manner provided by law for the amendment of any such contract, or at  
4 the option of the contracting parties without a public hearing, to  
5 provide for payment by the city, village or law enforcement agency  
6 receiving such service to the city, village, law enforcement agency or  
7 town in which such law enforcement agency has its headquarters, of a sum  
8 in addition to the amount to be paid for such service pursuant to the  
9 contract, to provide for any increase in cost, or new or added cost, to  
10 such city, village, law enforcement agency or town for insurance cover-  
11 age for liability for benefits under this chapter on and after the  
12 effective date of this chapter, by reason of the service rendered pursu-  
13 ant to such contract. Where such service is received pursuant to a  
14 contract entered into prior to the effective date of this chapter with a  
15 law enforcement agency having its headquarters outside the city, village  
16 or law enforcement agency receiving such service, then whether or not  
17 such contract is amended as provided in this section, or a contract  
18 entered into on or after the effective date of this chapter so provides,  
19 a city, village or law enforcement agency receiving such service on and  
20 after the effective date of this chapter pursuant to a contract, shall  
21 pay to the city, village, or town in which such law enforcement agency  
22 has its headquarters a sum in addition to the amount to be paid for such  
23 service pursuant to the contract, to provide for any increase in cost,  
24 or new or added cost, to such city, village, law enforcement agency or  
25 town for insurance coverage for the liability for benefits under this  
26 chapter on and after the effective date of this chapter by reason of the  
27 service rendered pursuant to such contract. Any such additional sum so  
28 paid shall not be subject to division with a law enforcement agency as  
29 otherwise provided by law in the case of contracts for such service.

30 S 31. The insurance contract. 1. The provisions of subdivisions one,  
31 two, four, five and seven of section fifty-four of the workers' compen-  
32 sation law, in relation to the insurance contract, which are not incon-  
33 sistent with this chapter, shall be applicable as fully as if set forth  
34 herein. The insurance carrier shall be a party to all hearings and  
35 determinations by the workers' compensation board or the courts and  
36 shall have the right to raise or plead any defense available to the  
37 political subdivision liable in the first instance for the benefits to  
38 be paid and provided by this chapter.

39 2. A contract of insurance indemnifying against the liability imposed  
40 by this chapter issued by an insurance carrier to a county or a town and  
41 in force on or after the effective date of such chapter, shall contain a  
42 provision reading as follows: "This contract does not provide (a) any  
43 coverage under the workers' compensation law or the volunteer peace  
44 officers' benefit law for which any law enforcement agency would be  
45 liable under such laws, (b) any workers' compensation benefits for  
46 volunteer peace officers and employees for which any law enforcement  
47 agency would be liable under the workers' compensation law, or (c) any  
48 volunteer peace officers' benefits for any volunteer peace officers for  
49 which any law enforcement agency would be liable under the volunteer  
50 peace officers' benefit law." The foregoing provision does not apply in  
51 relation to volunteer peace officers' benefit coverage and volunteer  
52 peace officers' benefits provided for and in relation to the following  
53 named law enforcement agencies which have expressly requested coverage  
54 under this contract pursuant to the provisions of section thirty-two of  
55 this article, to wit: (If there are no exceptions, enter "No  
56 exceptions").

1 3. An insurance contract to indemnify against liability imposed by  
2 this chapter originally issued to take effect on or after March first,  
3 next succeeding the effective date of this chapter, and any renewal  
4 thereof, (a) shall be a separate and distinct contract, (b) shall not be  
5 attached as an endorsement or rider to, or in any other way form a part  
6 of, a workers' compensation insurance contract, (c) shall not have  
7 attached thereto any endorsement or rider covering any liability under  
8 the workers' compensation law and (d) shall not be on a contract form  
9 used by the insurance carrier for the purpose of insuring employers  
10 against liabilities imposed by the workers' compensation law, or is  
11 attached to any such form as an endorsement or rider.

12 4. An insurance contract to indemnify against liability imposed by  
13 this chapter originally issued to take effect prior to the effective  
14 date of such chapter, shall not be renewed to continue in effect on or  
15 after March first, in the year of the effective date of this chapter, if  
16 (a) it is attached as an endorsement or rider to, or in any other way  
17 forms a part of, a workers' compensation insurance contract, (b) it has  
18 attached thereto any endorsement or rider covering liability under the  
19 workers' compensation law or (c) it is on a contract form used by the  
20 insurance carrier for the purpose of insuring employers against liabil-  
21 ities imposed by the workers' compensation law, or is attached to any  
22 such form as an endorsement or rider.

23 S 32. Group insurance. 1. Notwithstanding any provision of section  
24 thirty of this article, any town may contract for a single policy of  
25 insurance indemnifying (a) all law enforcement agencies wholly within  
26 such town which are liable for the payment of benefits under this chap-  
27 ter, (b) all territory within such town outside cities, villages and law  
28 enforcement agencies which is liable for the payment of benefits under  
29 this chapter, and (c) the town in relation to such law enforcement agen-  
30 cies, and outside territory, against liability imposed by this chapter.  
31 If a town has any such liability and contracts for such a single policy,  
32 then and in that event only any such policy, if requested by the board  
33 of trustees of any village wholly within the town, or by the board of  
34 commissioners of any law enforcement agency wholly within the town,  
35 shall also indemnify such village or law enforcement agency against such  
36 liability. The cost of such insurance shall be a town charge and shall  
37 be levied and collected in the same manner as other town charges only in  
38 the territory of such town which is liable for the payment of benefits  
39 under this chapter and which is outside of any village and law enforce-  
40 ment agencies not covered by such a policy. Nothing in this section  
41 contained shall impose any additional liability on any town for any  
42 benefit payments in relation to volunteer peace officers.

43 2. Notwithstanding any other provision of section thirty of this arti-  
44 cle, any group of cities, villages, law enforcement agencies or town  
45 boards acting for and on behalf of law enforcement agencies or territo-  
46 ries outside any such municipal corporations or districts which are  
47 liable for the payment of benefits under this chapter, all of which  
48 cities, villages, districts and territories are located in whole or in  
49 part within one county, may elect by resolution of the governing board  
50 of each member of the group to be insured against liability imposed by  
51 this chapter, as a group under a single policy. Such resolutions shall  
52 be filed with the chairman of the board of supervisors. The group shall  
53 file with the chairman of the board of supervisors an agreement, signed  
54 by the officer of the governing body designated by such resolution,  
55 agreeing to the effective date of such policy and to the population of  
56 each such city, village, law enforcement agency and such territory

1 outside any such municipal corporation or district, and, if any such law  
2 enforcement agency lies wholly or partly within two or more towns, the  
3 population of the district within each such town. The population shall  
4 be that which is shown by the latest federal census, or, if not shown by  
5 such census, then as estimated. The estimate used for any village,  
6 district or other area in a town plus the estimated or actual population  
7 of all other villages, districts and areas in such town shall not exceed  
8 the population of such town as shown by the latest federal census. It  
9 shall be the duty of the chairman of the board of supervisors of the  
10 county, upon the filing of such resolutions and agreement, promptly to  
11 contract for insurance indemnifying against the liability imposed by  
12 this chapter in the manner provided in section thirty of this article.  
13 Except by mutual consent of the participating members, a member may  
14 withdraw from such a group only upon the anniversary date of the policy,  
15 and then only upon thirty days' notice of withdrawal by mail to the  
16 chairman of the board of supervisors. The cost of such insurance shall  
17 be apportioned by the clerk of the board of supervisors of the county to  
18 each such city, village, law enforcement agency and such territory  
19 outside such municipal corporations and districts, in the proportion  
20 that the agreed population bears to the entire population of the group.  
21 Refunds, dividends and discounts in relation to such insurance shall be  
22 distributed or credited according to the same apportionment. Upon  
23 notification by the clerk of the board of supervisors, the chief fiscal  
24 officer of each such city, village or law enforcement agency shall pay  
25 to the county treasurer, from moneys available or made available, the  
26 amount apportioned to such city, village or district. Upon like notifi-  
27 cation, the supervisor of each town in which such law enforcement agency  
28 is located in whole or in part, or in which such outside territory is  
29 located, shall pay to the county treasurer the amount apportioned for  
30 such district, in whole or in part, or territory, as the case may be,  
31 using moneys raised or made available for the purposes of service in  
32 such district or outside territory, or if there be no such moneys or  
33 insufficient moneys, using funds of the town available or made avail-  
34 able, which funds shall be a charge upon such district or territory for  
35 which the town shall be reimbursed. The county treasurer shall pay the  
36 cost of such insurance with such moneys, or if any apportioned share has  
37 not been paid, the county treasurer shall advance the amount necessary  
38 from moneys of the general fund upon resolution of the board of supervi-  
39 sors. Any such advance shall be repaid as soon as moneys are available  
40 therefor. If any apportioned share remains unpaid, the county may  
41 recover the same by action at law. If any member of the group shall fail  
42 to pay its apportioned share within thirty days after notice that such  
43 amount has become due and payable, the chairman of the board of supervi-  
44 sors may terminate the participation of such member in the group by  
45 notice by mail to such member on a date specified in the notice, and a  
46 copy of such notice shall be filed by the chairman of the board of  
47 supervisors with the insurance carrier, who shall notify the chairman of  
48 the workers' compensation board of the termination of coverage in the  
49 same manner as provided for cancellation of policy under subdivision  
50 five of section fifty-four of the workers' compensation law. If any  
51 village or law enforcement agency is located in two or more counties, it  
52 may elect to join such a group in one of such counties. If any law  
53 enforcement agency includes territory in more than one county, it shall  
54 become a participant only if all the town boards acting for and on  
55 behalf of such district shall have elected that such district shall  
56 become a participant in such a group, and in such case such town boards

1 shall elect as to which county group it shall join. If any participat-  
2 ing law enforcement agency includes territory in more than one town,  
3 whether or not in more than one county, the amount of cost of insurance,  
4 refund, dividend or discount apportioned to such district shall be  
5 apportioned in the proportion that the population of the district within  
6 each such town bears to the population of the entire district. The  
7 figure used for population in such case shall be the one stated in the  
8 agreement. If the boundaries of any city, village, law enforcement  
9 agency or such outside territory in the group shall be changed during  
10 the effective period of any such insurance policy, or if there are  
11 changes in the membership of the group, the agreement heretofore  
12 mentioned concerning population shall be appropriately amended by a  
13 supplementary agreement to be executed and filed in the same manner as  
14 the original agreement, in which case the coverage of the policy and the  
15 apportionment of the cost thereof shall be changed accordingly.

16 3. Each policy issued pursuant to subdivisions one and two of this  
17 section shall identify clearly each city, town, village, or law enforce-  
18 ment agency and outside territory covered thereby.

#### 19 ARTICLE IV

#### 20 PROCEDURE

21 Section 40. Notice of injury or death.

22 41. Claim for benefits.

23 42. Reports of injuries, claims and proceedings.

24 43. Determination of claims for benefits.

25 44. Presumptions.

26 45. Modification of awards, decisions or orders.

27 46. Appeals.

28 47. Costs and fees.

29 48. Representation before the workers' compensation board.

30 49. Benefits; how payable.

31 50. Payments pending controversies.

32 51. Fund for reopened cases.

33 52. Awards to nonresidents; nonresident compensation fund.

34 53. Enforcement of payment.

35 54. Aggregate trust fund.

36 55. Penalty for false representation.

37 56. Non-duplication of benefits.

38 57. Miscellaneous provisions.

39 58. Application of provisions of workers' compensation law.

40 59. Liberal construction.

41 60. Administrative expenses.

42 61. Death or disability due to disease or malfunction of heart  
43 or coronary arteries; claims and procedures.

44 S 40. Notice of injury or death. Notice of an injury or death for  
45 which benefits are to be paid or provided under this chapter shall be  
46 given to the political subdivision or the law enforcement agency liable  
47 for the payment thereof within ninety days after such injury or death  
48 except that such notice need not be given if a claim is filed pursuant  
49 to section forty-one of this article within ninety days after such inju-  
50 ry or death. Either such notice may be given by any person claiming to  
51 be entitled to such benefits or by someone on his behalf. The notice  
52 shall be in writing, shall contain the name and address of the volunteer  
53 peace officer, and state in ordinary language the time, place, nature  
54 and cause of the injury and shall be signed by him or by a person on his  
55 behalf or, in case of death, by any one or more of his dependents, or by  
56 a person on their behalf. The notice shall be given to the clerk of the

1 board of supervisors of the county, the comptroller or chief financial  
2 officer of the city, the town clerk of the town, the clerk of the  
3 village, the secretary of the law enforcement agency or the law enforce-  
4 ment agency, as the case may be, by delivering it to such officer or by  
5 registered letter properly addressed to such officer. The failure to  
6 give notice of injury or notice of death shall be a bar to any claim  
7 under this chapter unless such failure is excused by the workers'  
8 compensation board on any of the following grounds, (1) that for some  
9 sufficient reason the notice could not have been given, (2) that a  
10 member of a body in charge of, or any officer of, the law enforcement  
11 agency had knowledge within such ninety-day period of the injuries or  
12 death, (3) that the political subdivision, or its insurance carrier had  
13 not been prejudiced by a delay in giving such notice, or (4) that the  
14 cause of disablement or death was not known to be the result of service  
15 performed in line of duty as a volunteer peace officer in sufficient  
16 time to comply with the provisions of this section.

17 S 41. Claim for benefits. The right to claim benefits under this chap-  
18 ter shall be barred, except as hereinafter provided, unless within two  
19 years after the injury, or, if death results therefrom, within two years  
20 after such death, a claim for the benefits under this chapter shall be  
21 filed with the chairman of the workers' compensation board and a copy of  
22 such claim shall be filed with the same officer to whom a notice of  
23 injury must be given under section forty of this article. The right of a  
24 volunteer peace officer or his dependents to claim benefits under this  
25 chapter for disablement or death, as the case may be, caused by disease  
26 shall not be barred by the failure of the volunteer peace officer or his  
27 dependents to file a claim within either such period of two years,  
28 provided such claim shall be filed after either such period of two years  
29 and within ninety days after disablement or ninety days after knowledge  
30 that the disease is or was due to service as a volunteer peace officer,  
31 whichever is the later date. The claim shall be in substantially the  
32 same form and shall give substantially the same information as is  
33 required to be given in a claim under the provisions of section twenty-  
34 eight of the workers' compensation law. Notwithstanding the provisions  
35 of any other law, any such claim need not be sworn to, verified or  
36 acknowledged. No case in which an advance payment is made to a volunteer  
37 peace officer or to his dependents in case of death shall be barred by  
38 the failure of the volunteer peace officer or his dependents to file a  
39 claim, and the workers' compensation board may at any time order a hear-  
40 ing on any such case in the same manner as though a claim for benefits  
41 had been filed.

42 The date of injury caused by disease shall be the date of contracture  
43 of such disease as determined by the workers' compensation board on the  
44 hearing of the claim and the responsibility of the political subdivision  
45 liable for the payment of benefits and its insurance carrier shall be  
46 fixed by the date of injury as so determined.

47 S 42. Reports of injuries, claims and proceedings. If an injury is one  
48 for which an insurance carrier might be liable under a contract of  
49 insurance or a county plan of self-insurance might be required to pay,  
50 the officer to whom a notice of injury is required to be delivered or  
51 mailed and with whom the claim in relation to such injury is required to  
52 be filed under the provisions of this chapter shall send a copy of such  
53 notice and claim and a copy of any notice of a proceeding relating to an  
54 injury or claim to such insurance carrier or county plan of self-insu-  
55 rance, as the case may be, promptly after receiving the same. The poli-  
56 tical subdivision or law enforcement agency liable for the payment of

benefits under this chapter shall keep such records and make such reports to the chairman of the workers' compensation board as required by section one hundred ten of the workers' compensation law, which by section fifty-seven of this article is made applicable to this chapter. Failure to comply with the provisions of this section shall not relieve such an insurance carrier of liability or a county plan of self-insurance from its obligation to pay.

S 43. Determination of claims for benefits. The provisions of section twenty of the workers' compensation law shall be applicable as fully as if set forth in this chapter, except that the waiting period of seven days for the presentation of claims for benefits shall not apply to the presentation of claims for benefits under this chapter.

S 44. Presumptions. If a claim for benefits is filed within two years after the injury, or, if death results therefrom, is filed within two years after such death, as provided in section forty-one of this article, then in any proceeding for the enforcement of such claim, it shall be presumed in the absence of substantial evidence to the contrary:

1. That the claim comes within the provisions of this chapter.

2. That sufficient notice thereof was given.

3. That the injury was not occasioned by the wilful intention of the injured volunteer peace officer to bring about the injury or death of himself or another.

4. That the injury did not result solely from the intoxication of the injured volunteer peace officer while acting in line of duty.

5. That the contents of medical and surgical reports introduced in evidence by claimants for benefits shall constitute prima facie evidence of fact as to the matter contained therein.

S 45. Modification of awards, decisions or orders. The provisions of section twenty-two of the workers' compensation law shall be applicable as fully as if set forth in this chapter.

S 46. Appeals. The provisions of section twenty-three of the workers' compensation law shall be applicable as fully as if set forth in this chapter except that reimbursement following modification or recession upon appeal shall be paid from administration expenses as provided by section sixty of this article.

S 47. Costs and fees. The provisions of section twenty-four of the workers' compensation law shall be applicable as fully as if set forth in this chapter.

S 48. Representation before the workers' compensation board. The provisions of section twenty-four-a of the workers' compensation law which are not inconsistent with the provisions of this chapter shall be applicable as fully as if set forth in this chapter.

S 49. Benefits; how payable. Except as otherwise provided in subdivisions one and two of section seven of this chapter, benefits under this chapter shall be paid in the manner provided in section twenty-five of the workers' compensation law. The provisions of such section twenty-five, other than those relating to welfare, pension or benefit plans, agreements and trusts, shall be applicable as fully as if set forth in this chapter.

S 50. Payments pending controversies. In order that the benefits to be paid and provided under this chapter shall be paid promptly where such benefits are conceded to be due to any person because of the death of or injuries to a volunteer peace officer, but controversy exists as to which political subdivision or law enforcement agency is liable for the payment thereof, the municipal corporations, law enforcement agencies involved in such controversy and their insurance carriers, if any, may

1 agree that any one or more of such municipal corporations, law enforce-  
2 ment agency or its insurance carrier shall pay or provide the benefits  
3 to, or in relation to, the person conceded to be entitled to such bene-  
4 fits without waiting for a final determination of the controversy, and  
5 may carry out the provisions of such an agreement. Notwithstanding any  
6 such payment, any party to the agreement may seek a final determination  
7 of the controversy in the same manner as if such benefits had not been  
8 paid or provided and any such payment or provision of benefits shall not  
9 prejudice any rights of the political subdivision, law enforcement agen-  
10 cy or its insurance carrier paying or providing the same, nor be taken  
11 as an admission against interest. After a final determination the  
12 parties to the agreement shall make any necessary and proper reimburse-  
13 ment to conform to the determination.

14 S 51. Fund for reopened cases. 1. The provisions of section twenty-  
15 five-a of the workers' compensation law shall be applicable as fully as  
16 if set forth in this chapter, except that, other than with respect to  
17 the annual assessment under such section, payments to an executor or  
18 administrator of the estate of a volunteer peace officer pursuant to  
19 subdivision two of section seven of this chapter shall not constitute  
20 payment of benefits for the purpose of determining the amount of the  
21 payment to the fund for reopened cases. Benefits paid to volunteer peace  
22 officers and other persons entitled to benefits under this chapter from  
23 the fund for reopened cases shall be in accordance with the provisions  
24 of this chapter.

25 2. The insurance carrier or entity responsible for payment of benefits  
26 paying such benefit increase shall claim for such benefit increase  
27 reimbursement from the special fund for reopened cases commencing one  
28 year from the date of the first such payment and annually thereafter  
29 while such payments continue, on a form prescribed by the chair.

30 3. All carriers shall pay benefits in conformance with rates set  
31 forth in section eight of this chapter without awaiting modification by  
32 the board of any prior inconsistent award.

33 S 52. Awards to nonresidents; nonresident compensation fund. The  
34 provisions of section twenty-five-b of the workers' compensation law  
35 shall be applicable as fully as if set forth in this chapter.

36 S 53. Enforcement of payment. 1. The provisions of section twenty-six  
37 of the workers' compensation law, other than the portions relating to  
38 section fourteen-a, subdivision eight of section fifteen and section  
39 fifty of the workers' compensation law, shall be applicable as fully as  
40 if set forth in this chapter.

41 2. The provisions of section fifty-four-b of the workers' compensation  
42 law shall be applicable as fully as if set forth in this chapter.

43 S 54. Aggregate trust fund. The provisions of section twenty-seven of  
44 the workers' compensation law which are not inconsistent with the  
45 provisions of this section, shall be applicable as fully as if set forth  
46 in this chapter with respect to claims for benefits under this chapter.

47 S 55. Penalty for false representation. If, for the purpose of obtain-  
48 ing any benefit or payment under the provisions of this chapter, or for  
49 the purpose of influencing any determination regarding any benefit or  
50 payment under the provisions of this chapter, either for himself or for  
51 any other person, any person wilfully makes a false statement or repre-  
52 sentation, he shall be guilty of a misdemeanor.

53 S 56. Non-duplication of benefits. If benefits are required to be paid  
54 under this chapter in the event of injury to or death of a volunteer  
55 peace officer, the volunteer peace officer or other persons entitled to  
56 such benefits shall not receive workers' compensation under the

1 provisions of the workers' compensation law in relation to such injury  
2 or death.

3 S 57. Miscellaneous provisions. The provisions of article seven of the  
4 workers' compensation law which are not inconsistent with the provisions  
5 of this chapter shall be applicable as if fully set forth herein. The  
6 reference to sections twenty-five-a and fifty of the workers' compen-  
7 sation law in section one hundred twenty-three of the workers' compen-  
8 sation law shall be deemed to refer to sections fifty-one and thirty of  
9 this chapter.

10 S 58. Application of provisions of workers' compensation law. All the  
11 powers and duties conferred or imposed upon the chairman of the workers'  
12 compensation board and the workers' compensation board by the workers'  
13 compensation law which are necessary for the administration of this  
14 chapter and not inconsistent with this chapter are, to that extent, made  
15 applicable to this chapter, even though such provisions of the workers'  
16 compensation law are not expressly made applicable to this chapter by  
17 the provisions of this chapter or the workers' compensation law.

18 S 59. Liberal construction. The provisions of this article relating to  
19 giving notice of injury and filing of claim, and to the contents of any  
20 such notice or claim, shall be construed liberally in order to effectuate  
21 the objects and purposes of this chapter.

22 S 60. Administrative expenses. 1. The chairman of the workers' compen-  
23 sation board and the department of audit and control, as soon as practi-  
24 cable after April first, next succeeding the effective date of this  
25 chapter, and annually as soon as practicable after April first in each  
26 year thereafter, shall ascertain the total amount of expenses, including  
27 in addition to the direct costs of personal service, the cost of mainte-  
28 nance and operation, the cost of retirement contributions made and work-  
29 ers' compensation premiums paid by the state for or on account of  
30 personnel, rentals for space occupied in state owned or state leased  
31 buildings, such additional sum as may be certified to the chairman of  
32 the workers' compensation board and the department of audit and control  
33 as a reasonable compensation for services rendered by the department of  
34 law and expenses incurred by such department, and all other direct or  
35 indirect costs, incurred by the chairman or the board during the preced-  
36 ing fiscal year in connection with the administration of this chapter  
37 and in connection with the preparations for the taking effect thereof.  
38 The services and expenses of the members, employees and officers of the  
39 board related to this chapter and such preparations shall be apportioned  
40 and included in the amount to be assessed. If any officers or employees  
41 of the state perform duties directly which in part are related to the  
42 administration of this chapter and such preparations and in part not  
43 related thereto and if there are other expenses which are incurred  
44 jointly in connection with the administration of this chapter and such  
45 preparations and in activities not so connected, an equitable apportion-  
46 ment shall be made and only such parts thereof as apply to the adminis-  
47 tration of this chapter and such preparations shall be chargeable to the  
48 administrative expenses as provided in this section.

49 2. An itemized statement of the expenses so ascertained shall be open  
50 to public inspection in the office of the chairman for thirty days after  
51 notice to all carriers by publication, before an assessment may be made  
52 upon such carriers as hereinafter provided.

53 3. The expenses of administration, including such expenses for prepa-  
54 ration, for the fiscal years ending March thirty-first, in the year of  
55 and the year following the effective date of this chapter shall be  
56 consolidated and reimbursed by one assessment made after April first, in



1 the year following the year of the effective date of this chapter. The  
2 chairman shall as soon as practicable after April first, in the year  
3 following the year of the effective date of this chapter, assess upon  
4 and collect from each carrier the proportion of such consolidated  
5 expenses for the fiscal years ending March thirty-first, in the year of  
6 and the year following the effective date of this chapter, and annually  
7 thereafter as soon as practicable after the close of each fiscal year  
8 the proportion of such expenses for the preceding fiscal year, that the  
9 total indemnity benefit payments made by such carrier in such year bore  
10 to the total indemnity benefit payments made by all insurance carriers.  
11 The amounts so secured shall be used to reimburse the state treasury for  
12 appropriations theretofore made by the state for the payment in the  
13 first instance of the expenses of administering this chapter and in  
14 connection with the preparations for the taking effect thereof.

15 4. The board shall keep an accurate record of all hearings held. Where  
16 the decision of a referee is affirmed by the board upon review, the  
17 board shall assess against each insurance carrier seeking such review  
18 the sum of twenty-five dollars and may assess against any other party  
19 the sum of five dollars. These assessments shall be paid into the state  
20 treasury.

21 5. The provisions of subdivision two of section one hundred fifty-one  
22 of the workers' compensation law shall not be applicable with respect to  
23 the apportionment and assessment of the expenses of administering this  
24 chapter, but shall be applicable with respect to the apportionment and  
25 assessment to replenish the fund for reopened cases under section twen-  
26 ty-five-a of the workers' compensation law and section fifty-one of this  
27 article.

28 6. Assessments for the fund for reopened cases and for the operations  
29 of the workers' compensation board shall not constitute elements of loss  
30 but shall for recoupment purposes be treated as separate costs by carri-  
31 ers. Carriers shall assess such costs on their policyholders in accord-  
32 ance with rules set forth by the New York compensation insurance rating  
33 board, as approved by the superintendent of insurance.

34 7. Notwithstanding the provisions of subdivision three of this  
35 section, the chair may require that partial payments for expenses of the  
36 fiscal year beginning April first, in the year of the effective date of  
37 this chapter, and for each fiscal year thereafter, shall be made on June  
38 thirtieth, September thirtieth, December thirty-first and March tenth of  
39 each year, or on such other dates as the director of the budget may  
40 prescribe, by each insurance carrier, including the state insurance  
41 fund. Each such payment shall be a sum equal to twenty-five per centum  
42 of the annual expenses assessed upon each carrier, including the state  
43 insurance fund, as estimated by the chair. The balance of assessments  
44 for the fiscal year beginning April first, in the year of the effective  
45 date of this chapter and each fiscal year thereafter, shall be paid upon  
46 determination of the actual amount due in accordance with the provisions  
47 of subdivision three of this section. Any overpayment of annual assess-  
48 ments resulting from the requirements of this subdivision shall be  
49 refunded or at the option of the chair shall be applied as a credit  
50 against the assessment of the succeeding fiscal year. The requirements  
51 of this subdivision shall not apply to those carriers whose estimated  
52 annual assessment is less than one hundred dollars and such carriers  
53 shall make a single payment of the estimated annual assessment on or  
54 before September thirtieth of the fiscal year.

55 8. Commencing with the fiscal year beginning April first, in the year  
56 following the year of the effective date of this chapter, the provisions

1 of subdivision six of this section shall be applicable to any county,  
2 city, town, village or other political subdivision failing to secure  
3 insurance pursuant to subdivisions eight and nine of section thirty of  
4 this chapter.

5 S 61. Death or disability due to disease or malfunction of heart or  
6 coronary arteries; claims and procedures. 1. A claim for benefits for  
7 the death or disability of a volunteer peace officer due to disease or  
8 malfunction of the heart or of one or more coronary arteries filed in  
9 accordance with section forty-one of this article, shall not be denied  
10 provided the claimant introduces evidence which establishes that a  
11 volunteer peace officer suffered disease or malfunction of the heart or  
12 of one or more coronary arteries which caused the disablement or death  
13 of the volunteer peace officer, and that such disease or malfunction  
14 resulted from the duties and activities in which the volunteer peace  
15 officer was engaged as set forth in section five of this chapter for  
16 which benefits shall be paid, unless it can be shown by substantial  
17 evidence to the contrary that the duties and activities of the volunteer  
18 peace officer in which the volunteer peace officer was engaged at the  
19 time of such disease or malfunction did not cause or precipitate such  
20 disease or malfunction; and further provided that the injury did not  
21 result solely from the intoxication of the volunteer peace officer while  
22 acting in line of duty or was not occasioned by the wilful intention of  
23 the volunteer peace officer to bring about the injury or death of  
24 himself or another.

25 2. The chairman of the workers' compensation board shall promulgate  
26 rules and regulations providing a priority for controverted claims for  
27 benefits filed as provided in subdivision one of this section. Such  
28 rules and regulations shall also prescribe a form to be used for making  
29 claims for such benefits. Such form shall specifically request the  
30 information necessary in order to receive an award of benefits.

31 3. This section shall not be construed to repeal by implication any  
32 existing provision of law.

#### 33 ARTICLE V

#### 34 EFFECT UPON OTHER LAWS

35 Section 90. References to workers' compensation law.

36 S 90. References to workers' compensation law. Where the provisions of  
37 any section or part of any section of the workers' compensation law are  
38 made applicable to this chapter and are incorporated herein by refer-  
39 ence, the following terms used in such provisions of the workers'  
40 compensation law shall have the following meanings when read in  
41 connection with this chapter:

42 1. "Accident" means "injury" as defined in this chapter.

43 2. "Dependent husband" means the "surviving spouse" of a female volun-  
44 teer peace officer, as defined in this chapter.

45 3. "Employee" means a volunteer peace officer who has been or might be  
46 injured in line of duty or who dies or might die from the effects of  
47 such an injury.

48 4. "Employment" means service of a volunteer peace officer in line of  
49 duty.

50 5. "Employer" means the political subdivision or law enforcement agen-  
51 cy liable for payment of financial benefits pursuant to this chapter.

52 6. "Injury" means "injury" as defined in this chapter.

53 7. "Injured worker" means injured volunteer peace officer.

54 8. "Insurance carrier" means "insurance carrier" as defined in this  
55 chapter.

1 9. "Same employ" means the same law enforcement agency, or in the same  
2 service for a political subdivision, or district or area thereof, pursu-  
3 ant to a call for assistance.

4 10. "Workers' compensation" means the benefits payable to a volunteer  
5 peace officer or his dependents pursuant to this chapter, including  
6 medical treatment and care, except when a different meaning obviously is  
7 intended.

8 Where any such section is so made applicable and is so incorporated,  
9 and there is a reference therein to another section or provision of the  
10 workers' compensation law which also has been made applicable to this  
11 chapter, such reference shall be deemed to include the applicable  
12 section or provision of this chapter if such inclusion is consistent  
13 with the provisions of this chapter.

14 S 2. Section 837 of the executive law is amended by adding a new  
15 subdivision 19 to read as follows:

16 19. OPERATE A REGISTRY OF VOLUNTEER PEACE OFFICER PROGRAMS ESTABLISHED  
17 BY LOCAL MUNICIPALITIES PURSUANT TO SECTION TWO HUNDRED SIX-C OF THE  
18 GENERAL MUNICIPAL LAW, AND PRESCRIBE A TRAINING COURSE FOR SUCH PEACE  
19 OFFICERS.

20 S 3. The general municipal law is amended by adding a new section  
21 206-c to read as follows:

22 S 206-C. VOLUNTEER PEACE OFFICER PROGRAMS. 1. AS USED IN THIS SECTION,  
23 A VOLUNTEER PEACE OFFICER SHALL MEAN AN UNPAID EMPLOYEE OF A PROGRAM  
24 REGISTERED WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES PURSUANT TO  
25 SUBDIVISION NINETEEN OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECU-  
26 TIVE LAW, WHO HAS BEEN TRAINED BY POLICE, SHERIFF OR OTHER ACADEMY  
27 APPROVED BY SUCH DIVISION.

28 2. ANY LOCAL MUNICIPALITY MAY ESTABLISH A VOLUNTEER PEACE OFFICER  
29 PROGRAM BY REGISTERING WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES,  
30 INCLUDING A ROSTER OF APPLICANTS, ALL OF WHOM SHALL MEET THE QUALIFICA-  
31 TIONS LISTED IN SUBDIVISION THREE OF THIS SECTION.

32 3. APPLICANTS FOR VOLUNTEER PEACE OFFICER SHALL MEET ALL OF THE  
33 FOLLOWING QUALIFICATIONS:

34 A. BE A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE STATE OF  
35 NEW YORK.

36 B. BE AT LEAST TWENTY-ONE YEARS OF AGE AND NO MORE THAN SIXTY-FIVE  
37 YEARS OF AGE. CONTINUANCE AS A VOLUNTEER PEACE OFFICER DEPENDS ON SUCH  
38 PERSON'S ABILITY TO FULFILL ASSIGNED DUTIES AS DETERMINED BY MUNICI-  
39 PALITIES APPROVED BY A PHYSICIAN IN CONJUNCTION WITH THE PROVISIONS OF  
40 THIS SUBDIVISION.

41 C. PASS A GENERAL PHYSICAL AS PRESCRIBED BY THE HIRING MUNICIPALITY  
42 AND GIVEN BY AN AUTHORIZED DOCTOR WHO IS FAMILIAR WITH THE DEMANDS OF  
43 ACTIVE POLICE WORK. SUCH PHYSICAL SHALL INCLUDE EYESIGHT CORRECTABLE TO  
44 A MINIMUM STANDARD AS PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE  
45 SERVICES.

46 D. PASS ANY OTHER QUALIFYING TESTS NECESSARY FOR THEIR DUTIES AS  
47 PRESCRIBED BY HIRING MUNICIPALITY BY PERSONS QUALIFIED IN THEIR RESPEC-  
48 TIVE AREAS SUCH AS BUT NOT LIMITED TO EYESIGHT, AGILITY AND PSYCHOLOG-  
49 ICAL EXAMS.

50 E. PASS ONGOING PHYSICAL AND OTHER TESTS AS DEEMED NECESSARY BY THE  
51 HIRING MUNICIPALITY TO QUALIFY FOR ONGOING EMPLOYMENT.

52 F. HAVE A VALID DRIVER'S LICENSE FREE FROM MAJOR MOVING VIOLATIONS.

53 G. HAVE BOTH A VERBAL AND WRITTEN PROFICIENCY IN THE ENGLISH LANGUAGE.

54 4. IN ADDITION TO THE REQUIREMENTS OF SUBDIVISION THREE OF THIS  
55 SECTION, THE LOCAL MUNICIPALITY SHALL PROVIDE AN INTERVIEW PROCEDURE,  
56 INCLUDING THE FINGERPRINTING OF THE INDIVIDUAL. THE FINGERPRINTS SHALL

1 BE USED AS A CHECK ON ANY PRIOR CRIMINAL HISTORY WHICH WOULD DISQUALIFY  
2 THE APPLICANT FROM PEACE OFFICER STATUS.

3 5. THE MUNICIPALITY MAY PETITION THE DIVISION OF CRIMINAL JUSTICE  
4 SERVICES FOR SPECIFIC LIMITED DUTY WAIVERS AS TO AGE, PHYSICAL CONDI-  
5 TION, DRIVING ABILITY, OR FLUENCY IN ENGLISH.

6 6. APPLICANT MUST PASS A TRAINING COURSE PRESCRIBED BY THE DIVISION OF  
7 CRIMINAL JUSTICE SERVICES. THE MUNICIPALITY SHALL ESTABLISH A STANDARD  
8 OPERATING PROCEDURE, WHICH SHALL BE FILED WITH THE DIVISION, AND WHICH  
9 SHALL SET FORTH THE DUTIES ANTICIPATED WHICH MAY INCLUDE UNARMED SELF  
10 DEFENSE, USE OF IMPACT AND CHEMICAL WEAPONS; TRAFFIC CONTROL AND DRIVING  
11 SKILLS. IF THE OFFICER IS REQUIRED TO CARRY A FIREARM, TRAINING SHALL  
12 BE GIVEN AS PRESCRIBED BY THE DIVISION, AND AN APPROPRIATE LICENSE SHALL  
13 BE OBTAINED AS PROVIDED IN SECTION 400.00 OF THE PENAL LAW.

14 7. UPON SUCCESSFUL COMPLETION OF ALL REQUIRED CLASSES AND TESTS, THE  
15 APPLICANT WILL BE REGISTERED WITH THE DIVISION AS A VOLUNTEER PEACE  
16 OFFICER AND WILL HAVE THE LEGAL STATUS OF A PEACE OFFICER WHILE PERFORM-  
17 ING AUTHORIZED ACTIVITIES WITHIN THE DUTIES ASSIGNED BY THE LOCAL MUNI-  
18 CIPALITY.

19 S 4. Effect of unconstitutionality in part. If any clause, sentence,  
20 paragraph, subdivision, section or part of the volunteer peace officers'  
21 benefit law, as established by section one of this act, shall be  
22 adjudged by any court of competent jurisdiction to be invalid, such  
23 judgement shall not affect, impair or invalidate the remainder thereof,  
24 but shall be confined in its operation to the clause, sentence, para-  
25 graph, subdivision, section or part thereof directly involved in the  
26 controversy in which such judgement shall have been rendered.

27 S 5. This act shall take effect on April first next succeeding the  
28 date on which it shall have become a law.