

STATE OF NEW YORK

1411--A

Cal. No. 40

2017-2018 Regular Sessions

IN SENATE

January 9, 2017

Introduced by Sens. GRIFFO, ADDABBO, AKSHAR, AMEDORE, BONACIC, BRESLIN, BROOKS, CARLUCCI, CROCI, GALLIVAN, HELMING, JACOBS, KAMINSKY, KENNEDY, MARCHIONE, MURPHY, O'MARA, PHILLIPS, RITCHIE, ROBACH, TEDISCO, VALE-SKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law and the tax law, in relation to the "New York state volunteer firefighter gap coverage cancer disability benefits act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state volunteer firefighter gap coverage cancer disability
3 benefits act".

4 § 2. The general municipal law is amended by adding a new section
5 205-cc to read as follows:

6 § 205-cc. New York state volunteer firefighter gap coverage cancer
7 disability benefits act. 1. (a) As used in this section, the term
8 "eligible volunteer firefighter" shall be defined as:

9 (i) a firefighter having five or more years of faithful and actual
10 service in the protection of life and property from fire in the interior
11 of buildings and having successfully passed a physical examination on
12 entry to the firefighter service, which examination failed to reveal any
13 evidence of cancers as defined in paragraph (b) of this subdivision; and

14 (ii) having submitted proof of five years of interior firefighting
15 service by providing verification that he or she has passed at least
16 five yearly certified mask fitting tests as set forth in 29 CFR 1910.134

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

LBD03660-02-7

1 or the current national fire protection association standards for mask
2 fit testing.

3 (b) As used in this section, the term "cancer" shall be defined as:

4 (i) a disease caused by an uncontrolled division of abnormal cells in
5 a part of the body or a malignant growth or tumor resulting from the
6 division of abnormal cells; and

7 (ii) affecting the lymphatic or hematological systems or the diges-
8 tive, urinary, prostate, neurological, breast or reproductive systems or
9 melanoma.

10 2. Notwithstanding any other provision of this chapter to the contra-
11 ry, on and after January first, two thousand nineteen, each political
12 subdivision liable for benefits provided under the volunteer firefight-
13 ers' benefit law shall provide and maintain an enhanced cancer disabili-
14 ty benefit insurance program for each eligible volunteer firefighter.
15 Such eligible volunteer firefighters shall receive payments of enhanced
16 cancer benefits as follows:

17 (a) A lump sum benefit of twenty-five thousand dollars subject to
18 limitations specified in the insurance contract and payable to such
19 eligible volunteer firefighter upon acceptable proof of diagnosis by a
20 physician board certified in the medical specialty appropriate for the
21 type of cancer involved that there are one or more malignant tumors
22 characterized by the uncontrollable and abnormal growth and spread of
23 malignant cells with invasion of normal tissue and that:

24 (i) surgery, radiotherapy, chemotherapy or radiation treatments are
25 medically necessary;

26 (ii) there is a tumor of the prostate, provided that it is treated
27 with radical prostatectomy or external beam therapy; and

28 (iii) there is metastasis; or

29 (iv) the eligible volunteer firefighter has terminal cancer, his or
30 her life expectancy is twenty-four months or less from the date of diag-
31 nosis, and will not benefit from, or has exhausted, curative therapy.

32 (b) A lump sum benefit of six thousand two hundred fifty dollars
33 subject to limitations specified in the insurance contract payable to
34 such volunteer firefighter upon acceptable proof of a diagnosis by a
35 physician board certified in the medical specialty appropriate for the
36 type of cancer involved that:

37 (i) there is carcinoma in situ such that surgery, radiotherapy, or
38 chemotherapy has been determined to be medically necessary;

39 (ii) there are malignant tumors which are treated by endoscopic proce-
40 dures alone; or

41 (iii) there are malignant melanomas.

42 (c) (i) A monthly benefit of one thousand five hundred dollars payable
43 six months after total disability and submission of acceptable proof of
44 said disability to the insurance carrier or other payor caused by cancer
45 as defined in the insurance contract as precluding service as a fire-
46 fighter and continuing for up to thirty-six consecutive monthly
47 payments.

48 (ii) The benefit under this paragraph shall be subordinate to any
49 other benefit actually paid to the firefighter for such disability from
50 any other source, not including private insurance purchased solely by
51 the firefighter, and shall be limited to the difference between the
52 amount of such other paid benefit and the amount specified under this
53 paragraph.

54 (iii) Any eligible firefighter receiving benefits under this paragraph
55 may be required to have his or her condition reevaluated. In the event
56 any such reevaluation reveals such person has regained the ability to

1 perform duties as a firefighter, then his or her benefits under this
2 paragraph shall cease the last day of the month of determination.

3 (d) An eligible volunteer firefighter shall also be eligible for
4 payment of enhanced cancer death benefits in the amount of fifty thou-
5 sand dollars which is payable to him or her upon acceptable proof by a
6 physician board certified that his or her death resulted from compli-
7 cations associated with cancer affecting the lymphatic or hematological
8 systems or the digestive, urinary, prostate, neurological, breast or
9 reproductive systems or melanoma.

10 3. The combined total of all benefits received by an eligible volun-
11 teer firefighter under paragraphs (a) and (b) of subdivision two of this
12 section during his or her lifetime shall not exceed fifty thousand
13 dollars. Benefits provided to an eligible volunteer firefighter under
14 paragraphs (a), (b) and (d) of subdivision two of this section shall
15 continue for sixty months following the formal cessation of the volun-
16 teer firefighter's status as an active volunteer firefighter. The legal-
17 ly organized fire department which the volunteer firefighter served
18 shall be responsible for payment of all premiums associated with bene-
19 fits provided under paragraphs (a), (b) and (d) of subdivision two of
20 this section throughout the sixty month term of coverage continuation.

21 4. Any department whose member has received a disability payment under
22 the provisions of this section shall report such payments to the office
23 of fire prevention and control. On January first, two thousand twenty,
24 and on the same date each year thereafter, the office of fire prevention
25 and control shall report to the legislature the number of firefighters
26 who have received benefits under the provisions of this section.

27 5. A political subdivision liable for providing insurance pursuant to
28 this section may use proceeds from real property taxes for such
29 purposes.

30 § 3. Subsection (c) of section 612 of the tax law is amended by adding
31 a new paragraph 44 to read as follows:

32 (44) Insurance payments received by an eligible volunteer firefighter
33 for the enhanced cancer benefits in section two hundred five-cc of the
34 general municipal law to the extent includable in gross income for
35 federal income tax purposes.

36 § 4. This act shall take effect January 1, 2019, provided, however,
37 that the state fire administrator shall promulgate any rules and regu-
38 lations necessary for the implementation of this act on or before such
39 effective date.