

# STATE OF NEW YORK

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711--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

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Introduced by M. of A. GUNTHER, KOLB, BRINDISI, SKOUFIS, ENGLEBRIGHT, PICHARDO, BLAKE, HOOPER, STECK, MAYER, STIRPE, THIELE, JAFFEE, SKARTADOS, SIMANOWITZ, LUPARDO, WOERNER, JENNE, ZEBROWSKI, HUNTER, CAHILL, OTIS, RYAN, JEAN-PIERRE, CUSICK, GOTTFRIED, ROSENTHAL, LIFTON, TITUS, RAMOS, BARRETT, GJONAJ, BRONSON, PALMESANO, RAIA, MONTESANO, GRAF, LUPINACCI, CURRAN, BLANKENBUSH, WALTER, FINCH, MALLIOTAKIS, GOODELL, MURRAY, LAWRENCE, GARBARINO, BUTLER, OAKS, PALUMBO, DiPIETRO, BYRNE, NORRIS, LAVINE, D'URSO, B. MILLER, BRABENEC, JONES, McDONALD, ERRIGO, WALLACE, JOHNS, MORINELLO, M. L. MILLER, PHEFFER AMATO, CASTORINA, FAHY, WALKER, SOLAGES, BARRON, ARROYO, PELLEGRINO, NOLAN, ABINANTI, CRESPO, RODRIGUEZ, BENEDETTO, WILLIAMS, DenDEKKER, SANTABARBARA, M. G. MILLER, CARROLL, BARNWELL, PAULIN, O'DONNELL -- Multi-Sponsored by -- M. of A. BARCLAY, BUCHWALD, GALEF, KEARNS, LOPEZ, MAGEE, McDONOUGH, McKEVITT, McLAUGHLIN, RA, ROZIC, SCHIMMINGER, SIMON, WALSH -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

6 (ii) having submitted proof of five years of interior firefighting  
7 service by providing verification that he or she has passed at least  
8 five yearly certified mask fitting tests as set forth in 29 CFR 1910.134  
9 or the current national fire protection association standards for mask  
10 fit testing.

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

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

15 (ii) affecting the lymphatic or hematological systems or the diges-  
16 tive, urinary, prostate, neurological, breast or reproductive systems or  
17 melanoma.

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

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

32 (i) surgery, radiotherapy, chemotherapy or radiation treatments are  
33 medically necessary;

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

36 (iii) there is metastasis; or

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

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

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

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

49 (iii) there are malignant melanomas.

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

1 (ii) The benefit under this paragraph shall be subordinate to any  
2 other benefit actually paid to the firefighter for such disability from  
3 any other source, not including private insurance purchased solely by  
4 the firefighter, and shall be limited to the difference between the  
5 amount of such other paid benefit and the amount specified under this  
6 paragraph.

7 (iii) Any eligible firefighter receiving benefits under this paragraph  
8 may be required to have his or her condition reevaluated. In the event  
9 any such reevaluation reveals such person has regained the ability to  
10 perform duties as a firefighter, then his or her benefits under this  
11 paragraph shall cease the last day of the month of determination.

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

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

30 4. Any department whose member has received a disability payment under  
31 the provisions of this section shall report such payments to the office  
32 of fire prevention and control. On January first, two thousand twenty,  
33 and on the same date each year thereafter, the office of fire prevention  
34 and control shall report to the legislature the number of firefighters  
35 who have received benefits under the provisions of this section.

36 5. A political subdivision liable for providing insurance pursuant to  
37 this section may use proceeds from real property taxes for such  
38 purposes.

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

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

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