

STATE OF NEW YORK

711--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

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 -- again reported from said committee with amendments, 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 Enhanced 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. Volunteer firefighter enhanced cancer disability benefits.
7 A legally organized fire district, department or company shall provide

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

LBD03660-06-7

1 and maintain for each eligible volunteer firefighter, an enhanced cancer
2 disability benefit insurance program.

3 1. Definitions. As used in this section:

4 a. "Eligible volunteer firefighter" means:

5 (i) A volunteer firefighter having five or more years of faithful and
6 actual service in the protection of life and property from fire in the
7 interior of buildings and having successfully passed a physical examina-
8 tion on entry to the firefighter service, which examination failed to
9 reveal any evidence of cancers as defined in paragraph b of this subdivi-
10 vision; and

11 (ii) Having submitted proof of five years of interior firefighting
12 service by providing verification that he or she has passed at least
13 five yearly certified mask fitting tests as set forth in 29 CFR 1910.134
14 or the current National Fire Protection Association standards for mask
15 fit testing.

16 b. "Cancer" means:

17 (i) A disease caused by an uncontrolled division of abnormal cells in
18 a part of the body or a malignant growth or tumor resulting from the
19 division of abnormal cells; and

20 (ii) Affecting the prostate or breast, lymphatic, hematological diges-
21 tive, urinary, neurological, or reproductive systems, or melanoma.

22 2. An eligible volunteer firefighter shall be entitled to payment of
23 enhanced cancer benefits as follows:

24 a. A lump sum benefit of twenty-five thousand dollars for each diagno-
25 sis payable to such firefighter upon acceptable proof to the insurance
26 carrier or other payor of a diagnosis by a board certified physician in
27 the medical specialty appropriate for the type of cancer diagnosed that
28 there are one or more malignant tumors characterized by the uncontrolla-
29 ble and abnormal growth and spread of malignant cells with invasion of
30 normal tissue and that either:

31 (i) There is metastasis; and

32 (1) surgery, radiotherapy, or chemotherapy is medically necessary; or

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

35 (ii) The firefighter has terminal cancer, his or her life expectancy
36 is twenty-four months or less from the date of diagnosis, and will not
37 benefit from, or has exhausted, curative therapy.

38 b. A lump sum benefit of six thousand two hundred fifty dollars for
39 each diagnosis payable to such firefighter upon acceptable proof to the
40 insurance carrier or other payor of a diagnosis by a board certified
41 physician in the medical specialty appropriate for the type of cancer
42 involved that either:

43 (i) There is carcinoma in situ such that surgery, radiotherapy, or
44 chemotherapy has been determined to be medically necessary;

45 (ii) There are malignant tumors which are treated by endoscopic proce-
46 dures alone; or

47 (iii) There are malignant melanomas.

48 c. A monthly benefit of one thousand five hundred dollars, of which
49 the first payment shall be made six months after total disability and
50 submission of acceptable proof of said disability to the insurance
51 carrier or other payor that such disability is caused by cancer and that
52 such cancer precludes the firefighter from serving as a firefighter.
53 Such benefit shall continue for up to thirty-six consecutive monthly
54 payments.

55 (i) Such monthly benefit shall be subordinate to any other benefit
56 actually paid to the firefighter solely for such disability from any

1 other source, not including private insurance purchased solely by the
2 firefighter, and shall be limited to the difference between the amount
3 of such other paid benefit and the amount specified herein; and

4 (ii) Any firefighter receiving such monthly benefits may be required
5 to have his or her condition reevaluated. In the event any such reeval-
6 uation reveals that such person has regained the ability to perform
7 duties as a firefighter, then his or her monthly benefits shall cease
8 the last day of the month of reevaluation.

9 (iii) In the event that there is a subsequent reoccurrence of a disa-
10 bility caused by cancer which precludes the firefighter from serving as
11 a firefighter, he or she shall be entitled to receive any remaining
12 monthly payments.

13 d. An eligible volunteer firefighter shall also be entitled to an
14 additional payment of enhanced cancer death benefits in the amount of
15 fifty thousand dollars which is payable to such volunteer or his or her
16 beneficiary upon acceptable proof by a board certified physician that
17 such firefighter's death resulted from complications associated with
18 cancer.

19 e. Provided however, an eligible volunteer firefighter shall be ineli-
20 gible for these benefits if they are already provided paid firefighter
21 benefits under this article.

22 3. The combined total of all benefits received by any eligible volun-
23 teer firefighter pursuant to paragraphs a and b of subdivision two of
24 this section during his or her lifetime shall not exceed fifty thousand
25 dollars.

26 4. An eligible volunteer firefighter shall remain eligible for bene-
27 fits pursuant to paragraphs a, b and d of subdivision two of this
28 section for sixty months after the formal cessation of the volunteer
29 firefighter's status as an active volunteer firefighter. The fire
30 district, department or company in which such firefighter served shall
31 be responsible for payment of all premiums or other costs associated
32 with benefits provided under paragraphs a, b and d of subdivision two of
33 this section throughout the duration of the eligible volunteer fire-
34 fighter's coverage.

35 5. A fire district, department or company shall, no later than January
36 first, two thousand nineteen, show proof of insurance coverage that
37 meets the requirements of this section or shall show satisfactory proof
38 of the ability to pay such compensation to ensure adequate coverage for
39 all eligible volunteer firefighters. Such coverage shall remain in
40 effect until sixty months after the fire district, department or company
41 no longer has any volunteer firefighters who could qualify for this
42 benefit.

43 6. Any fire district, department or company that has had a volunteer
44 firefighter file a claim for or receive an enhanced cancer disability
45 benefit under the provisions of this section shall report such claims
46 filed, claims paid and types of claims to the office of fire prevention
47 and control. Beginning on January first, two thousand twenty, the office
48 of fire and prevention control shall report annually to the governor,
49 the temporary president of the senate, the speaker of the assembly, the
50 chair of the senate finance committee and the chair of the assembly ways
51 and means committee the number of firefighters who have filed claims
52 pursuant to this section and the number of firefighters who have
53 received benefits under the provisions of this section.

54 7. The office of fire prevention and control, in consultation with the
55 department of financial services and the workers' compensation board,
56 shall adopt such rules and regulations as are reasonable and necessary

1 to implement the provisions of this section. Such regulations shall
2 include the process by which a firefighter files a claim for the
3 enhanced cancer disability benefit, how the beneficiary of such eligible
4 volunteer firefighter files a claim for the enhanced cancer death bene-
5 fit, the process by which claimants can appeal a denial of benefits and
6 what proof is deemed acceptable to qualify for such benefits.

7 § 3. Subsection (c) of section 612 of the tax law is amended by adding
8 a new paragraph 42 to read as follows:

9 (42) Insurance payments received by an eligible volunteer firefighter
10 for the cancer disability benefits in section two hundred five-cc of the
11 general municipal law to the extent includable in gross income for
12 federal income tax purposes.

13 § 4. This act shall take effect January 1, 2019; provided, however,
14 that effective immediately, the addition and/or repeal of any rule or
15 regulation necessary for the implementation of this act on its effective
16 date are authorized and directed to be made and completed on or before
17 such effective date; and provided further, however, that the regulations
18 required pursuant to subdivision 7 of section 205-cc of the general
19 municipal law as added by section two of this act shall be finalized no
20 later than June 1, 2018.