

4368

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Codes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 ARTICLE II

50 COVERAGE AND BENEFITS

- 51 Section 5. Coverage.
52 6. Volunteer peace officers' benefits; general.
53 7. Death benefits.
54 7-a. Date of death benefits.
55 8. Permanent total disability benefits.
56 9. Temporary total disability benefits.

- 1 10. Permanent partial disability benefits.
- 2 11. Temporary partial disability benefits.
- 3 11-a. Repair or replacement of prosthetic devices.
- 4 11-b. Hazardous exposures.
- 5 12. Nonschedule adjustments.
- 6 13. Reclassification of disabilities.
- 7 14. Previous disability.
- 8 15. Expense for rehabilitating injured volunteer peace offi-
9 cers.
- 10 16. Treatment and care.
- 11 17. Aliens.
- 12 18. Disposition of accrued benefits upon death.
- 13 19. Exclusiveness of remedy.
- 14 20. Other remedies of volunteer peace officers; subrogation.
- 15 21. Assistance to other states, the Dominion of Canada, prop-
16 erty ceded to the federal government and to Indian
17 reservations.
- 18 22. Revenues and benefits from sources other than this chap-
19 ter.
- 20 23. Assignments, exemptions.
- 21 24. Waiver agreements void.
- 22 25. Limitation of time.

23 S 5. Coverage. 1. The duties and activities in relation to which bene-
24 fits shall be paid and provided pursuant to this chapter are:

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

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

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

38 d. While, within this country or in Canada and pursuant to orders or
39 authorization, instructing or being instructed in lawful duties, attend-
40 ing a training school or course of instruction for volunteer peace offi-
41 cers, or attending or participating in any noncompetitive training
42 program, including necessary travel directly connected therewith.

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

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

54 g. While, within the state and pursuant to orders or authorization,
55 working in connection with the construction, testing, inspection, repair
56 or maintenance of (1) the law enforcement agency facility and the

1 fixtures, furnishings and equipment thereof, and (2) the law enforcement
2 agency vehicles, apparatus and equipment used by the law enforcement
3 agency, or other unit thereof, including necessary travel directly
4 connected therewith other than travel to or returning from such work.

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

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

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

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

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

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

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

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

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

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

54 f. Work, service or activities in which the volunteer peace officer
55 has been ordered not to participate. This subdivision shall not be
56 deemed to enumerate all of the activities engaged in by volunteer peace

1 officers for which mandatory coverage is not provided by this chapter,
2 or to prohibit any of the activities described in this subdivision, or
3 to prevent the securing of insurance pursuant to section four thousand
4 two hundred thirty-seven of the insurance law to cover volunteer peace
5 officers when engaged in activities other than those for which mandatory
6 coverage is provided by this chapter.

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

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

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

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

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

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

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

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

54 6. All questions of dependency shall be determined as of the time of
55 the injury.

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

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

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

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

1 for each week under this subdivision shall not exceed three hundred
2 dollars per week.

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

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

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

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

54 S 10. Permanent partial disability benefits. 1. In the case of disa-
55 bility partial in character, but permanent in quality, the volunteer
56 peace officer, injured in the line of duty shall be paid one hundred

1 fifty dollars for each week for the period specified in this subdivision
2 as follows:

3 a. Loss of member.

4 Member lost	Number of weeks
5 Arm	312
6 Leg	288
7 Hand	244
8 Foot	205
9 Eye	160
10 Thumb	75
11 First finger	46
12 Great toe	38
13 Second finger	30
14 Third finger	25
15 Toe other than great toe	16
16 Fourth finger	15

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

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

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

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

41 e. Disfigurement. In the case of serious facial or head disfigurement,
42 including a disfigurement continuous in length which is partly in the
43 facial area and also extends into the neck region as described in this
44 paragraph, the volunteer peace officer shall be paid in a lump sum a
45 proper and equitable amount, which shall be determined by the workers'
46 compensation board. If the earning capacity of the volunteer peace offi-
47 cer shall have been impaired, or may in the future be impaired, by any
48 serious disfigurement in the region above the sterno clavicular artic-
49 ulations anterior to and including the region of the sterno cleido
50 mastoid muscles on either side, the volunteer peace officer shall be
51 paid in a lump sum a proper and equitable amount which shall be deter-
52 mined by such board. Two or more serious disfigurements, not continuous
53 in length, resulting from the same injury, if partially in the facial
54 area and partially in such neck region, shall be deemed to be a facial
55 disfigurement. An award, or the aggregate of the awards, to a volunteer

1 peace officer under this paragraph shall not exceed twenty thousand
2 dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 cost thereof shall be audited, raised and paid as provided in section
2 thirty of this chapter. The provisions of sections thirteen through
3 thirteen-m, inclusive, and sections nineteen through nineteen-b, inclu-
4 sive, of the workers' compensation law, to the extent that such
5 provisions are not inconsistent with this chapter, shall be applicable
6 in relation to any injured volunteer peace officer, political subdivi-
7 sion and third persons as fully as if set forth in this chapter.

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

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

28 S 19. Exclusiveness of remedy. The benefits provided by this chapter
29 shall be the exclusive remedy of a volunteer peace officer, or his
30 spouse, parents, dependents, next of kin, executor or administrator, or
31 anyone otherwise entitled to recover damages, at common law or other-
32 wise, for or on account of an injury to a volunteer peace officer in
33 line of duty or death resulting from an injury to a volunteer peace
34 officer in line of duty, as against (1) the political subdivision or law
35 enforcement agency liable for the payment of such benefits, (2) the
36 political subdivision regularly served by the law enforcement agency of
37 which the volunteer peace officer is a member, whether or not pursuant
38 to a contract for law enforcement services, even though any such poli-
39 tical subdivision is not liable for the payment of such benefits in the
40 circumstances, and (3) any person or company acting under governmental
41 or statutory authority in furtherance of the duties or activities in
42 relation to which any such injury resulted; provided, however, that the
43 benefits provided by this chapter shall not be the exclusive remedy as
44 against persons who, in the furtherance of the same duties or activ-
45 ities, are not similarly barred from recourse against the volunteer
46 peace officer, or his executor or administrator.

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

52 S 21. Assistance to other states, the Dominion of Canada, property
53 ceded to the federal government and to Indian reservations. 1. Whenever
54 a department in this state shall answer a call to furnish assistance to
55 any political subdivision or territory of another state of the United
56 States or of the Dominion of Canada, or property ceded to the federal

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

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

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

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

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

53 S 23. Assignments, exemptions. Benefits payable under this article
54 shall not be assigned, released or commuted, except as provided by this
55 chapter, and shall be exempt from all claims of creditors and from levy,
56 execution and attachment or other remedy for recovery or collection of a

1 debt, which exemption may not be waived. Such benefits shall be paid
2 only to volunteer peace officers or their dependents except as otherwise
3 provided in this chapter.

4 S 24. Waiver agreements void. No agreement by a volunteer peace offi-
5 cer to waive his or her right to benefits under this chapter shall be
6 valid.

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

10 ARTICLE III

11 LIABILITY FOR BENEFITS; INSURANCE

12 Section 30. Liability for and payment of benefits.

13 31. The insurance contract.

14 32. Group insurance.

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

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

26 2. If at the time of injury the volunteer peace officer was a volun-
27 teer member of a law enforcement agency which uses volunteer peace offi-
28 cers, any benefit under this chapter shall be a city, village or law
29 enforcement agency charge, as the case may be, and any claim therefor
30 shall be audited in the same manner as other claims against the city,
31 village or law enforcement agency and the amount thereof shall be raised
32 and paid in the same manner as other city, village or law enforcement
33 agency charges.

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

42 4. If at the time of injury the volunteer peace officer was a member
43 of a law enforcement agency operating in, or maintained jointly by two
44 or more villages, or two or more towns, or two or more law enforcement
45 agencies, any benefit under this chapter shall be a charge against such
46 villages, towns or law enforcement agencies, in the proportion that the
47 full valuation of taxable real estate in each bears to the aggregate
48 full valuation of the taxable real estate of all such villages, towns or
49 law enforcement agencies and the amount thereof shall be audited, raised
50 and paid in the same manner as other village, town or law enforcement
51 agency charges. Full valuation shall be determined by dividing the
52 assessed valuations of taxable real estate of each such village, town or
53 law enforcement agency as shown by the latest completed assessment roll
54 of the village, town or law enforcement agency by the equalization rate
55 established by the authorized state agency or officer for such roll;
56 provided, however, in a county having a county department of assessment

1 the full valuation in towns and law enforcement agencies shall be deter-
2 mined by applying the state equalization rate established for the town,
3 or the town in which the law enforcement agency is located, to the
4 appropriate portion of the last completed county roll.

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

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

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

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

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

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

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

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

55 3. An insurance contract to indemnify against liability imposed by
56 this chapter originally issued to take effect on or after March first,

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

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

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

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

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

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

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

17 ARTICLE IV
 18 PROCEDURE

19 Section 40. Notice of injury or death.
 20 41. Claim for benefits.
 21 42. Reports of injuries, claims and proceedings.
 22 43. Determination of claims for benefits.
 23 44. Presumptions.
 24 45. Modification of awards, decisions or orders.
 25 46. Appeals.
 26 47. Costs and fees.
 27 48. Representation before the workers' compensation board.
 28 49. Benefits; how payable.
 29 50. Payments pending controversies.
 30 51. Fund for reopened cases.
 31 52. Awards to nonresidents; nonresident compensation fund.
 32 53. Enforcement of payment.
 33 54. Aggregate trust fund.
 34 55. Penalty for false representation.
 35 56. Non-duplication of benefits.
 36 57. Miscellaneous provisions.
 37 58. Application of provisions of workers' compensation law.
 38 59. Liberal construction.
 39 60. Administrative expenses.
 40 61. Death or disability due to disease or malfunction of heart
 41 or coronary arteries; claims and procedures.

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

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

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

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

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

1 by section one hundred ten of the workers' compensation law, which by
2 section fifty-seven of this article is made applicable to this chapter.
3 Failure to comply with the provisions of this section shall not relieve
4 such an insurance carrier of liability or a county plan of self-insu-
5 rance from its obligation to pay.

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

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

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

17 2. That sufficient notice thereof was given.

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

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

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

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

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

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

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

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

48 S 50. Payments pending controversies. In order that the benefits to be
49 paid and provided under this chapter shall be paid promptly where such
50 benefits are conceded to be due to any person because of the death of or
51 injuries to a volunteer peace officer, but controversy exists as to
52 which political subdivision or law enforcement agency is liable for the
53 payment thereof, the municipal corporations, law enforcement agencies
54 involved in such controversy and their insurance carriers, if any, may
55 agree that any one or more of such municipal corporations, law enforce-
56 ment agency or its insurance carrier shall pay or provide the benefits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 8. Commencing with the fiscal year beginning April first, in the year
54 following the year of the effective date of this chapter, the provisions
55 of subdivision six of this section shall be applicable to any county,
56 city, town, village or other political subdivision failing to secure

1 insurance pursuant to subdivisions eight and nine of section thirty of
2 this chapter.

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

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

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

31 ARTICLE V

32 EFFECT UPON OTHER LAWS

33 Section 90. References to workers' compensation law.

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

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

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

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

46 4. "Employment" means service of a volunteer peace officer in line of
47 duty.

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

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

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

52 8. "Insurance carrier" means "insurance carrier" as defined in this
53 chapter.

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

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

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

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

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

17 S 3. The general municipal law is amended by adding a new section
18 206-c to read as follows:

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

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

29 3. APPLICANTS FOR VOLUNTEER PEACE OFFICER SHALL MEET ALL OF THE
30 FOLLOWING QUALIFICATIONS:

31 A. BE A CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE STATE OF
32 NEW YORK.

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

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

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

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

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

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

51 4. IN ADDITION TO THE REQUIREMENTS OF SUBDIVISION THREE OF THIS
52 SECTION, THE LOCAL MUNICIPALITY SHALL PROVIDE AN INTERVIEW PROCEDURE,
53 INCLUDING THE FINGERPRINTING OF THE INDIVIDUAL. THE FINGERPRINTS SHALL
54 BE USED AS A CHECK ON ANY PRIOR CRIMINAL HISTORY WHICH WOULD DISQUALIFY
55 THE APPLICANT FROM PEACE OFFICER STATUS.

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

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

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

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

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