

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. CAHILL, HOYT -- Multi-Sponsored by -- M. of A. LIFTON -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the general municipal law, in relation to eligibility for disability benefits for injuries sustained while performing the high risk duties of law enforcement

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

1     Section 1. Section 207-c of the general municipal law, as added by  
2     chapter 920 of the laws of 1961, subdivision 1 as amended by section 3  
3     of chapter 675 of the laws of 1997, subdivisions 2, 3 and 5 as amended  
4     by chapter 661 of the laws of 1984, is amended to read as follows:  
5     S 207-c. Payment of salary, wages, medical and hospital expenses of  
6     policemen with injuries or illness incurred in the performance of  
7     duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT.  
8     1. Any sheriff, undersheriff, deputy sheriff or corrections officer of  
9     the sheriff's department of any county (hereinafter referred to as a  
10    ["policeman"] "POLICE OFFICER") or any member of a police force of any  
11    county, city of less than one million population, town or village, or of  
12    any district, agency, board, body or commission thereof, or a detec-  
13    tive-investigator or any other investigator who is a police officer  
14    pursuant to the provisions of the criminal procedure law employed in the  
15    office of a district attorney of any county, or any corrections officer  
16    of the county of Erie department of corrections, or an advanced ambu-  
17    lance medical technician employed by the county of Nassau, or any super-  
18    vising fire inspector, fire inspector, fire marshal or assistant fire  
19    marshal employed full-time in the county of Nassau fire marshal's  
20    office, or at the option of the county of Nassau, any probation officer  
21    of the county of Nassau who is injured in the performance of his OR HER  
22    duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT or who is taken  
23    sick as a result of the performance of his OR HER duties ENTAILING THE  
24    HEIGHTENED RISK OF LAW ENFORCEMENT so as to necessitate medical or other  
25    lawful remedial treatment shall be paid by the municipality by which he

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

LBD00567-01-9

1 OR SHE is employed the full amount of his OR HER regular salary or wages  
2 until his OR HER disability arising therefrom has ceased, and, in addi-  
3 tion such municipality shall be liable for all medical treatment and  
4 hospital care necessitated by reason of such injury or illness.  
5 Provided, however, and notwithstanding the foregoing provisions of this  
6 section, the municipal health authorities or any physician appointed for  
7 the purpose by the municipality, after a determination has first been  
8 made that such injury or sickness was incurred during, or resulted from,  
9 such performance of duty ENTAILING THE HEIGHTENED RISK OF LAW ENFORCE-  
10 MENT, may attend any such injured or sick [policeman] POLICE OFFICER,  
11 from time to time, for the purpose of providing medical, surgical or  
12 other treatment, or for making inspections and the municipality shall  
13 not be liable for salary or wages payable to such [policeman] POLICE  
14 OFFICER, or for the cost of medical treatment or hospital care furnished  
15 after such date as such health authorities or physician shall certify  
16 that such injured or sick [policeman] POLICE OFFICER has recovered and  
17 is physically able to perform his OR HER regular duties. Any injured or  
18 sick [policeman] POLICE OFFICER who shall refuse to accept medical  
19 treatment or hospital care or shall refuse to permit medical inspections  
20 as herein authorized, including examinations pursuant to subdivision two  
21 of this section, shall be deemed to have waived his OR HER rights under  
22 this section in respect to expenses for medical treatment or hospital  
23 care rendered and for salary or wages payable after such refusal.

24 Notwithstanding any provision of law to the contrary, a provider of  
25 medical treatment or hospital care furnished pursuant to the provisions  
26 of this section shall not collect or attempt to collect reimbursement  
27 for such treatment or care from any such [policeman] POLICE OFFICER, a  
28 member of a police force of any county, city, any such advanced ambu-  
29 lance medical technician or any such detective-investigator or any other  
30 such investigator who is a police officer pursuant to the provisions of  
31 the criminal procedure law.

32 2. Payment of the full amount of regular salary or wages, as provided  
33 by subdivision one of this section, shall be discontinued with respect  
34 to any [policeman] POLICE OFFICER who is permanently disabled as a  
35 result of an injury or sickness incurred or resulting from the perform-  
36 ance of his OR HER duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCE-  
37 MENT if such [policeman] POLICE OFFICER is granted an accidental disa-  
38 bility retirement allowance pursuant to section three hundred  
39 sixty-three of the retirement and social security law, a retirement for  
40 disability incurred in performance of duty allowance pursuant to section  
41 three hundred sixty-three-c of the retirement and social security law or  
42 similar accidental disability pension provided by the pension fund of  
43 which he OR SHE is a member. If application for such retirement allow-  
44 ance or pension is not made by such [policeman] POLICE OFFICER, applica-  
45 tion therefor may be made by the head of the police force or as other-  
46 wise provided by the chief executive officer or local legislative body  
47 of the municipality by which such [policeman] POLICE OFFICER is  
48 employed.

49 3. If such a [policeman] POLICE OFFICER is not eligible for or is not  
50 granted such accidental disability retirement allowance or retirement  
51 for disability incurred in performance of duty allowance or similar  
52 accidental disability pension and is nevertheless, in the opinion of  
53 such health authorities or physician, unable to perform his OR HER regu-  
54 lar duties as a result of such injury or sickness but is able, in their  
55 opinion, to perform specified types of light police duty, payment of the  
56 full amount of regular salary or wages, as provided by subdivision one

1 of this section, shall be discontinued with respect to such [policeman]  
2 POLICE OFFICER if he OR SHE shall refuse to perform such light police  
3 duty if the same is available and offered to him OR HER, provided,  
4 however, that such light duty shall be consistent with his OR HER status  
5 as a [policeman] POLICE OFFICER and shall enable him OR HER to continue  
6 to be entitled to his OR HER regular salary or wages, including  
7 increases thereof and fringe benefits, to which he OR SHE would have  
8 been entitled if he OR SHE were able to perform his OR HER regular  
9 duties.

10 4. The appropriate municipal officials may transfer such a [policeman]  
11 POLICE OFFICER to a position in another agency or department where they  
12 are able to do so pursuant to applicable civil service requirements and  
13 provided the [policeman] POLICE OFFICER shall consent thereto.

14 5. If such a [policeman] POLICE OFFICER is not eligible for or is not  
15 granted an accidental disability retirement allowance or retirement for  
16 disability incurred in performance of duty allowance or similar acci-  
17 dental disability pension, he OR SHE shall not be entitled to further  
18 payment of the full amount of regular salary or wages, as provided by  
19 subdivision one of this section, after he OR SHE shall have attained the  
20 mandatory service retirement age applicable to him OR HER or shall have  
21 attained the age or performed the period of service specified by appli-  
22 cable law for the termination of his OR HER service. Where such a  
23 [policeman] POLICE OFFICER is transferred to another position pursuant  
24 to subdivision four of this section or retires or is retired under any  
25 procedure applicable to him OR HER, including but not limited to circum-  
26 stances described in subdivision two of this section or in this subdivi-  
27 sion, he OR SHE shall thereafter, in addition to any retirement allow-  
28 ance or pension to which he OR SHE is then entitled, continue to be  
29 entitled to medical treatment and hospital care necessitated by reason  
30 of such injury or illness.

31 6. Notwithstanding any provision of law contrary thereto contained  
32 herein or elsewhere, a cause of action shall accrue to the municipality  
33 for reimbursement in such sum or sums actually paid as salary or wages  
34 and or for medical treatment and hospital care as against any third  
35 party against whom the [policeman] POLICE OFFICER shall have a cause of  
36 action for the injury sustained or sickness caused by such third party.

37 S 2. Subdivisions 1, 4 and 6 of section 207-c of the general municipal  
38 law, subdivision 1 as amended by section 4 of chapter 675 of the laws of  
39 1997, subdivisions 4 and 6 as amended by chapter 628 of the laws of  
40 1991, are amended to read as follows:

41 1. Any sheriff, undersheriff, deputy sheriff or corrections officer of  
42 the sheriff's department of any county or any member of a police force  
43 of any county, city of less than one million population, town or  
44 village, or of any district, agency, board, body or commission thereof,  
45 or any LIRR police officer as defined in paragraph two of subdivision a  
46 of section three hundred eighty-nine of the retirement and social secu-  
47 rity law whose benefits are provided in and pursuant to such section  
48 three hundred eighty-nine, or a detective-investigator or any other  
49 investigator who is a police officer pursuant to the provisions of the  
50 criminal procedure law employed in the office of a district attorney of  
51 any county, or any corrections officer of the county of Erie department  
52 of corrections, or an advanced ambulance medical technician employed by  
53 the county of Nassau, or any supervising fire inspector, fire inspector,  
54 fire marshal, or assistant fire marshal employed full-time in the county  
55 of Nassau fire marshal's office, or at the option of the county of  
56 Nassau, any probation officer of the county of Nassau who is injured in

1 the performance of his OR HER duties ENTAILING THE HEIGHTENED RISK OF  
2 LAW ENFORCEMENT or who is taken sick as a result of the performance of  
3 his OR HER duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT so as  
4 to necessitate medical or other lawful remedial treatment shall be paid  
5 by the municipality or The Long Island Rail Road Company by which he OR  
6 SHE is employed the full amount of his OR HER regular salary or wages  
7 from such employer until his OR HER disability arising therefrom has  
8 ceased, and, in addition such municipality or The Long Island Rail Road  
9 Company shall be liable for all medical treatment and hospital care  
10 necessitated by reason of such injury or illness.

11 Provided, however, and notwithstanding the foregoing provisions of  
12 this section, the municipal or The Long Island Rail Road Company health  
13 authorities or any physician appointed for the purpose by the municipi-  
14 pality or The Long Island Rail Road Company, as relevant, after a deter-  
15 mination has first been made that such injury or sickness was incurred  
16 during, or resulted from, such performance of duty ENTAILING THE HEIGHT-  
17 ENED RISK OF LAW ENFORCEMENT, may attend any such injured or sick  
18 [policeman] POLICE OFFICER, from time to time, for the purpose of  
19 providing medical, surgical or other treatment, or for making  
20 inspections, and the municipality or The Long Island Rail Road Company,  
21 as the case may be, shall not be liable for salary or wages payable to  
22 such [policeman] POLICE OFFICER, or for the cost of medical treatment or  
23 hospital care furnished after such date as such health authorities or  
24 physician shall certify that such injured or sick [policeman] POLICE  
25 OFFICER has recovered and is physically able to perform his OR HER regu-  
26 lar duties. Any injured or sick [policeman] POLICE OFFICER who shall  
27 refuse to accept medical treatment or hospital care or shall refuse to  
28 permit medical inspections as herein authorized, including examinations  
29 pursuant to subdivision two of this section, shall be deemed to have  
30 waived his OR HER rights under this section in respect to expenses for  
31 medical treatment or hospital care rendered and for salary or wages  
32 payable after such refusal.

33 Notwithstanding any provision of law to the contrary, a provider of  
34 medical treatment or hospital care furnished pursuant to the provisions  
35 of this section shall not collect or attempt to collect reimbursement  
36 for such treatment or care from any such [policeman] POLICE OFFICER or  
37 any such advanced ambulance medical technician.

38 4. The appropriate municipal or The Long Island Rail Road Company  
39 officials may transfer a [policeman] POLICE OFFICER to a position in  
40 another agency or department where they are able to do so pursuant to  
41 applicable civil service or The Long Island Rail Road Company require-  
42 ments and provided the [policeman] POLICE OFFICER shall consent thereto.

43 6. Notwithstanding any provision of law contrary thereto contained  
44 herein or elsewhere, a cause of action shall accrue to the municipality  
45 or The Long Island Rail Road Company for reimbursement in such sum or  
46 sums actually paid as salary or wages and or for medical treatment and  
47 hospital care as against any third party against whom the [policeman]  
48 POLICE OFFICER shall have a cause of action for the injury sustained or  
49 sickness caused by such third party.

50 S 3. This act shall take effect immediately, provided that the amend-  
51 ments to section 207-c of the general municipal law made by section one  
52 of this act shall be subject to the expiration and reversion of subdivi-  
53 sions 1, 4, and 6 of such section pursuant to section 7 of chapter 628  
54 of the laws of 1991, as amended, when upon such date the provisions of  
55 section two of this act shall take effect.