S T A T E O F N E W Y O R K

107

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

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:

Section 1. Section 207-c of the general municipal law, as added by chapter 920 of the laws of 1961, subdivision 1 as amended by section 3 of chapter 675 of the laws of 1997, subdivisions 2, 3 and 5 as amended by chapter 661 of the laws of 1984, is amended to read as follows:

S 207-c. Payment of salary, wages, medical and hospital expenses of policemen with injuries or illness incurred in the performance of duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT.

1. Any sheriff, undersheriff, deputy sheriff or corrections officer of the sheriff's department of any county (hereinafter referred to as a ["policeman"] "POLICE OFFICER") or any member of a police force of any county, city of less than one million population, town or village, or of any district, agency, board, body or commission thereof, or a detective-investigator or any other investigator who is a police officer pursuant to the provisions of the criminal procedure law employed in the office of a district attorney of any county, or any corrections officer of the county of Erie department of corrections, or an advanced ambulance medical technician employed by the county of Nassau, or any supervising fire inspector, fire inspector, fire marshal or assistant fire marshal employed full-time in the county of Nassau fire marshal's office, or at the option of the county of Nassau, any probation officer of the county of Nassau who is injured in the performance of his OR HER duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT or who is taken sick as a result of the performance of his OR HER duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT so as to necessitate medical or other 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.

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

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

2. Payment of the full amount of regular salary or wages, as provided by subdivision one of this section, shall be discontinued with respect to any [policeman] POLICE OFFICER who is permanently disabled as a result of an injury or sickness incurred or resulting from the performance of his OR HER duties ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT if such [policeman] POLICE OFFICER is granted an accidental disability retirement allowance pursuant to section three hundred sixty-three of the retirement and social security law, a retirement for disability incurred in performance of duty allowance pursuant to section three hundred sixty-three-c of the retirement and social security law or similar accidental disability pension provided by the pension fund of which he OR SHE is a member. If application for such retirement allowance or pension is not made by such [policeman] POLICE OFFICER, application therefor may be made by the head of the police force or as otherwise provided by the chief executive officer or local legislative body of the municipality by which such [policeman] POLICE OFFICER is employed.

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

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

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

5. If such a [policeman] POLICE OFFICER is not eligible for or is not granted an accidental disability retirement allowance or retirement for disability incurred in performance of duty allowance or similar accidental disability pension, he OR SHE shall not be entitled to further payment of the full amount of regular salary or wages, as provided by subdivision one of this section, after he OR SHE shall have attained the mandatory service retirement age applicable to him OR HER or shall have attained the age or performed the period of service specified by applicable law for the termination of his OR HER service. Where such a [policeman] POLICE OFFICER is transferred to another position pursuant to subdivision four of this section or retires or is retired under any procedure applicable to him OR HER, including but not limited to circumstances described in subdivision two of this section or in this subdivision, he OR SHE shall thereafter, in addition to any retirement allowance or pension to which he OR SHE is then entitled, continue to be entitled to medical treatment and hospital care necessitated by reason of such injury or illness.

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

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

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

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

Provided, however, and notwithstanding the foregoing provisions of this section, the municipal or The Long Island Rail Road Company health authorities or any physician appointed for the purpose by the municipality or The Long Island Rail Road Company, as relevant, after a determination has first been made that such injury or sickness was incurred during, or resulted from, such performance of duty ENTAILING THE HEIGHTENED RISK OF LAW ENFORCEMENT, may attend any such injured or sick [policeman] POLICE OFFICER, from time to time, for the purpose of providing medical, surgical or other treatment, or for making inspections, and the municipality or The Long Island Rail Road Company, as the case may be, shall not be liable for salary or wages payable to such [policeman] POLICE OFFICER, or for the cost of medical treatment or hospital care furnished after such date as such health authorities or physician shall certify that such injured or sick [policeman] POLICE OFFICER has recovered and is physically able to perform his OR HER regular duties. Any injured or sick [policeman] POLICE OFFICER who shall refuse to accept medical treatment or hospital care or shall refuse to permit medical inspections as herein authorized, including examinations pursuant to subdivision two of this section, shall be deemed to have waived his OR HER rights under this section in respect to expenses for medical treatment or hospital care rendered and for salary or wages payable after such refusal.

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

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

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

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