

2391--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 18, 2011

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Introduced by M. of A. McENENY, COLTON, STEVENSON -- Multi-Sponsored by  
-- M. of A. ABBATE, BOYLAND, COOK, PHEFFER, TOWNS -- read once and  
referred to the Committee on Governmental Employees -- committee  
discharged, bill amended, ordered reprinted as amended and recommitted  
to said committee

AN ACT to amend the state finance law, in relation to compensation and  
medical expenses of certain injured state employees

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

1     Section 1. The state finance law is amended by adding a new section  
2     209-c to read as follows:  
3     S 209-C. PAYMENT OF SALARY, WAGES, MEDICAL AND HOSPITAL EXPENSES OF  
4     PAROLE OFFICERS, PAROLE REVOCATION SPECIALISTS OR WARRANT OFFICERS IN  
5     THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION WITH INJURIES OR  
6     ILLNESS INCURRED IN THE PERFORMANCE OF DUTIES. 1. ANY PAROLE OFFICER,  
7     PAROLE REVOCATION SPECIALIST OR WARRANT OFFICER IN THE DEPARTMENT OF  
8     CORRECTIONS AND COMMUNITY SUPERVISION (HEREINAFTER REFERRED TO AS A  
9     "PEACE OFFICER") WHO IS INJURED IN THE PERFORMANCE OF HIS OR HER DUTIES  
10    OR WHO IS TAKEN SICK AS A RESULT OF THE PERFORMANCE OF HIS OR HER DUTIES  
11    SO AS TO NECESSITATE MEDICAL OR OTHER LAWFUL REMEDIAL TREATMENT SHALL BE  
12    PAID BY THE STATE THE FULL AMOUNT OF HIS OR HER REGULAR SALARY OR WAGES  
13    UNTIL HIS OR HER DISABILITY ARISING THEREFROM HAS CEASED, AND, IN ADDI-  
14    TION THE STATE SHALL BE LIABLE FOR ALL MEDICAL TREATMENT AND HOSPITAL  
15    CARE NECESSITATED BY REASON OF SUCH INJURY OR ILLNESS. PROVIDED, HOWEV-  
16    ER, AND NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, THE  
17    STATE HEALTH AUTHORITIES OR ANY PHYSICIAN APPOINTED FOR THE PURPOSE BY  
18    THE STATE, AFTER A DETERMINATION HAS FIRST BEEN MADE THAT SUCH INJURY OR  
19    SICKNESS WAS INCURRED DURING, OR RESULTED FROM, SUCH PERFORMANCE OF  
20    DUTY, MAY ATTEND ANY SUCH INJURED OR SICK PEACE OFFICER, FROM TIME TO  
21    TIME, FOR THE PURPOSE OF PROVIDING MEDICAL, SURGICAL OR OTHER TREATMENT,  
22    OR FOR MAKING INSPECTIONS AND THE STATE SHALL NOT BE LIABLE FOR SALARY

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

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1 OR WAGES PAYABLE TO SUCH PEACE OFFICER, OR FOR THE COST OF MEDICAL  
2 TREATMENT OR HOSPITAL CARE FURNISHED AFTER SUCH DATE AS SUCH HEALTH  
3 AUTHORITIES OR PHYSICIAN SHALL CERTIFY THAT SUCH INJURED OR SICK PEACE  
4 OFFICER HAS RECOVERED AND IS PHYSICALLY ABLE TO PERFORM HIS OR HER REGU-  
5 LAR DUTIES. ANY INJURED OR SICK PEACE OFFICER WHO SHALL REFUSE TO ACCEPT  
6 MEDICAL TREATMENT OR HOSPITAL CARE OR SHALL REFUSE TO PERMIT MEDICAL  
7 INSPECTIONS AS HEREIN AUTHORIZED, INCLUDING EXAMINATIONS PURSUANT TO  
8 SUBDIVISION TWO OF THIS SECTION, SHALL BE DEEMED TO HAVE WAIVED HIS OR  
9 HER RIGHTS UNDER THIS SECTION IN RESPECT TO EXPENSES FOR MEDICAL TREAT-  
10 MENT OR HOSPITAL CARE RENDERED AND FOR SALARY OR WAGES PAYABLE AFTER  
11 SUCH REFUSAL.

12 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A PROVIDER OF  
13 MEDICAL TREATMENT OR HOSPITAL CARE FURNISHED PURSUANT TO THE PROVISIONS  
14 OF THIS SECTION SHALL NOT COLLECT OR ATTEMPT TO COLLECT REIMBURSEMENT  
15 FOR SUCH TREATMENT OR CARE FROM ANY SUCH PEACE OFFICER.

16 2. PAYMENT OF THE FULL AMOUNT OF REGULAR SALARY OR WAGES, AS PROVIDED  
17 BY SUBDIVISION ONE OF THIS SECTION, SHALL BE DISCONTINUED WITH RESPECT  
18 TO ANY PEACE OFFICER WHO IS PERMANENTLY DISABLED AS A RESULT OF AN INJU-  
19 RY OR SICKNESS INCURRED OR RESULTING FROM THE PERFORMANCE OF HIS OR HER  
20 DUTIES IF SUCH PEACE OFFICER IS GRANTED AN ACCIDENTAL DISABILITY RETIRE-  
21 MENT ALLOWANCE PURSUANT TO SECTION SIXTY-THREE OF THE RETIREMENT AND  
22 SOCIAL SECURITY LAW, A RETIREMENT FOR DISABILITY INCURRED IN PERFORMANCE  
23 OF DUTY ALLOWANCE OR SIMILAR ACCIDENTAL DISABILITY PENSION PROVIDED BY  
24 THE PENSION FUND OF WHICH HE OR SHE IS A MEMBER. IF APPLICATION FOR SUCH  
25 RETIREMENT ALLOWANCE OR PENSION IS NOT MADE BY SUCH PEACE OFFICER,  
26 APPLICATION THEREFOR MAY BE MADE BY THE COMMISSIONER OF THE DEPARTMENT  
27 OF CORRECTIONS AND COMMUNITY SUPERVISION.

28 3. IF SUCH A PEACE OFFICER IS NOT ELIGIBLE FOR OR IS NOT GRANTED SUCH  
29 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE OR RETIREMENT FOR DISABILITY  
30 INCURRED IN PERFORMANCE OF DUTY ALLOWANCE OR SIMILAR ACCIDENTAL DISABIL-  
31 ITY PENSION AND IS NEVERTHELESS, IN THE OPINION OF SUCH HEALTH AUTHORI-  
32 TIES OR PHYSICIAN, UNABLE TO PERFORM HIS OR HER REGULAR DUTIES AS A  
33 RESULT OF SUCH INJURY OR SICKNESS BUT IS ABLE, IN THEIR OPINION, TO  
34 PERFORM SPECIFIED TYPES OF LIGHT PEACE OFFICER DUTY, PAYMENT OF THE FULL  
35 AMOUNT OF REGULAR SALARY OR WAGES, AS PROVIDED BY SUBDIVISION ONE OF  
36 THIS SECTION, SHALL BE DISCONTINUED WITH RESPECT TO SUCH PEACE OFFICER  
37 IF HE OR SHE SHALL REFUSE TO PERFORM SUCH LIGHT PEACE OFFICER DUTY IF  
38 THE SAME IS AVAILABLE AND OFFERED TO HIM OR HER; PROVIDED, HOWEVER, THAT  
39 SUCH LIGHT DUTY SHALL BE CONSISTENT WITH HIS OR HER STATUS AS A PEACE  
40 OFFICER AND SHALL ENABLE HIM OR HER TO CONTINUE TO BE ENTITLED TO HIS OR  
41 HER REGULAR SALARY OR WAGES, INCLUDING INCREASES THEREOF AND FRINGE  
42 BENEFITS, TO WHICH HE OR SHE WOULD HAVE BEEN ENTITLED IF HE OR SHE WERE  
43 ABLE TO PERFORM HIS OR HER REGULAR DUTIES.

44 4. THE APPROPRIATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
45 OFFICIALS MAY TRANSFER SUCH A PEACE OFFICER TO A POSITION IN ANOTHER  
46 UNIT OR OFFICE WITHIN THE DEPARTMENT WHERE THEY ARE ABLE TO DO SO PURSU-  
47 ANT TO APPLICABLE CIVIL SERVICE REQUIREMENTS AND PROVIDED THE PEACE  
48 OFFICER SHALL CONSENT THERETO.

49 5. IF SUCH A PEACE OFFICER IS NOT ELIGIBLE FOR OR IS NOT GRANTED AN  
50 ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE OR RETIREMENT FOR DISABILITY  
51 INCURRED IN PERFORMANCE OF DUTY ALLOWANCE OR SIMILAR ACCIDENTAL DISABIL-  
52 ITY PENSION, HE OR SHE SHALL NOT BE ENTITLED TO FURTHER PAYMENT OF THE  
53 FULL AMOUNT OF REGULAR SALARY OR WAGES, AS PROVIDED BY SUBDIVISION ONE  
54 OF THIS SECTION, AFTER HE OR SHE SHALL HAVE ATTAINED THE MANDATORY  
55 SERVICE RETIREMENT AGE APPLICABLE TO HIM OR HER OR SHALL HAVE ATTAINED  
56 THE AGE OR PERFORMED THE PERIOD OF SERVICE SPECIFIED BY APPLICABLE LAW

1 FOR THE TERMINATION OF HIS OR HER SERVICE. WHERE SUCH A PEACE OFFICER IS  
2 TRANSFERRED TO ANOTHER POSITION PURSUANT TO SUBDIVISION FOUR OF THIS  
3 SECTION OR RETIRES OR IS RETIRED UNDER ANY PROCEDURE APPLICABLE TO HIM  
4 OR HER, INCLUDING BUT NOT LIMITED TO CIRCUMSTANCES DESCRIBED IN SUBDIVI-  
5 SION TWO OF THIS SECTION OR IN THIS SUBDIVISION, HE OR SHE SHALL THERE-  
6 AFTER, IN ADDITION TO ANY RETIREMENT ALLOWANCE OR PENSION TO WHICH HE OR  
7 SHE IS THEN ENTITLED, CONTINUE TO BE ENTITLED TO MEDICAL TREATMENT AND  
8 HOSPITAL CARE NECESSITATED BY REASON OF SUCH INJURY OR ILLNESS.

9 6. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A CAUSE OF  
10 ACTION SHALL ACCRUE TO THE STATE FOR REIMBURSEMENT IN SUCH SUM OR SUMS  
11 ACTUALLY PAID AS SALARY OR WAGES AND/OR FOR MEDICAL TREATMENT AND HOSPI-  
12 TAL CARE AS AGAINST ANY THIRD PARTY AGAINST WHOM THE PEACE OFFICER SHALL  
13 HAVE A CAUSE OF ACTION FOR THE INJURY SUSTAINED OR SICKNESS CAUSED BY  
14 SUCH THIRD PARTY.

15 S 2. This act shall take effect immediately.