

1675

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CAHILL -- 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 ASSEM-
BLY, 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
26 OR SHE is employed the full amount of his OR HER regular salary or wages

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

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

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

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

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

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

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

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

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

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

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