STATE OF NEW YORK

1411--A

Cal. No. 40

2017-2018 Regular Sessions

IN SENATE

January 9, 2017

Introduced by Sens. GRIFFO, ADDABBO, AKSHAR, AMEDORE, BONACIC, BRESLIN, BROOKS, CARLUCCI, CROCI, GALLIVAN, HELMING, JACOBS, KAMINSKY, KENNEDY, MARCHIONE, MURPHY, O'MARA, PHILLIPS, RITCHIE, ROBACH, TEDISCO, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law and the tax law, in relation to the "New York state volunteer firefighter gap coverage cancer disability benefits act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York state volunteer firefighter gap coverage cancer disability benefits act".

§ 2. The general municipal law is amended by adding a new section 205-cc to read as follows:

§ 205-cc. New York state volunteer firefighter gap coverage cancer disability benefits act. 1. (a) As used in this section, the term "eligible volunteer firefighter" shall be defined as:

(i) a firefighter having five or more years of faithful and actual service in the protection of life and property from fire in the interior of buildings and having successfully passed a physical examination on entry to the firefighter service, which examination failed to reveal any evidence of cancers as defined in paragraph (b) of this subdivision; and

(ii) having submitted proof of five years of interior firefighting service by providing verification that he or she has passed at least five yearly certified mask fitting tests as set forth in 29 CFR 1910.134

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

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or the current national fire protection association standards for mask fit testing.

(b) As used in this section, the term "cancer" shall be defined as:

(i) a disease caused by an uncontrolled division of abnormal cells in a part of the body or a malignant growth or tumor resulting from the division of abnormal cells; and

(ii) affecting the lymphatic or hematological systems or the digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma.

2. Notwithstanding any other provision of this chapter to the contrary, on and after January first, two thousand nineteen, each political subdivision liable for benefits provided under the volunteer firefighters' benefit law shall provide and maintain an enhanced cancer disability benefit insurance program for each eligible volunteer firefighter. Such eligible volunteer firefighters shall receive payments of enhanced cancer benefits as follows:

(a) A lump sum benefit of twenty-five thousand dollars subject to limitations specified in the insurance contract and payable to such eligible volunteer firefighter upon acceptable proof of diagnosis by a physician board certified in the medical specialty appropriate for the type of cancer involved that there are one or more malignant tumors characterized by the uncontrollable and abnormal growth and spread of malignant cells with invasion of normal tissue and that:

(i) surgery, radiotherapy, chemotherapy or radiation treatments are medically necessary;

(ii) there is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; and

(iii) there is metastasis; or

(iv) the eligible volunteer firefighter has terminal cancer, his or her life expectancy is twenty-four months or less from the date of diagnosis, and will not benefit from, or has exhausted, curative therapy.

(b) A lump sum benefit of six thousand two hundred fifty dollars subject to limitations specified in the insurance contract payable to such volunteer firefighter upon acceptable proof of a diagnosis by a physician board certified in the medical specialty appropriate for the type of cancer involved that:

(i) there is carcinoma in situ such that surgery, radiotherapy, or chemotherapy has been determined to be medically necessary;

(ii) there are malignant tumors which are treated by endoscopic procedures alone; or

(iii) there are malignant melanomas.

(c) (i) A monthly benefit of one thousand five hundred dollars payable six months after total disability and submission of acceptable proof of said disability to the insurance carrier or other payor caused by cancer as defined in the insurance contract as precluding service as a firefighter and continuing for up to thirty-six consecutive monthly payments.

(ii) The benefit under this paragraph shall be subordinate to any other benefit actually paid to the firefighter for such disability from any other source, not including private insurance purchased solely by the firefighter, and shall be limited to the difference between the amount of such other paid benefit and the amount specified under this paragraph.

(iii) Any eligible firefighter receiving benefits under this paragraph may be required to have his or her condition reevaluated. In the event any such reevaluation reveals such person has regained the ability to

perform duties as a firefighter, then his or her benefits under this paragraph shall cease the last day of the month of determination.

(d) An eligible volunteer firefighter shall also be eligible for payment of enhanced cancer death benefits in the amount of fifty thousand dollars which is payable to him or her upon acceptable proof by a physician board certified that his or her death resulted from complications associated with cancer affecting the lymphatic or hematological systems or the digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma.

3. The combined total of all benefits received by an eligible volunteer firefighter under paragraphs (a) and (b) of subdivision two of this section during his or her lifetime shall not exceed fifty thousand dollars. Benefits provided to an eligible volunteer firefighter under paragraphs (a), (b) and (d) of subdivision two of this section shall continue for sixty months following the formal cessation of the volunteer firefighter's status as an active volunteer firefighter. The legally organized fire department which the volunteer firefighter served shall be responsible for payment of all premiums associated with benefits provided under paragraphs (a), (b) and (d) of subdivision two of this section throughout the sixty month term of coverage continuation.

4. Any department whose member has received a disability payment under the provisions of this section shall report such payments to the office of fire prevention and control. On January first, two thousand twenty, and on the same date each year thereafter, the office of fire prevention and control shall report to the legislature the number of firefighters who have received benefits under the provisions of this section.

5. A political subdivision liable for providing insurance pursuant to this section may use proceeds from real property taxes for such purposes.

§ 3. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 44 to read as follows:

(44) Insurance payments received by an eligible volunteer firefighter for the enhanced cancer benefits in section two hundred five-cc of the general municipal law to the extent includable in gross income for federal income tax purposes.

§ 4. This act shall take effect January 1, 2019, provided, however, that the state fire administrator shall promulgate any rules and regulations necessary for the implementation of this act on or before such effective date.