STATE OF NEW YORK

1411--B

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 -- again 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 Enhanced Cancer Disability Benefits Act".

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

§ 205-cc. Volunteer firefighter enhanced cancer disability benefits. A legally organized fire district, department or company shall provide and maintain for each eligible volunteer firefighter, an enhanced cancer disability benefit insurance program.

1. Definitions. As used in this section:

a. "Eligible volunteer firefighter" means:

(i) A volunteer 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

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

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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 or the current National Fire Protection Association standards for mask fit testing.

b. "Cancer" means:

(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 prostate or breast, lymphatic, hematological digestive, urinary, neurological, or reproductive systems, or melanoma.

2. An eligible volunteer firefighter shall be entitled to payment of enhanced cancer benefits as follows:

a. A lump sum benefit of twenty-five thousand dollars for each diagnosis payable to such firefighter upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board certified physician in the medical specialty appropriate for the type of cancer diagnosed 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 either:

(i) There is metastasis; and

(1) surgery, radiotherapy, or chemotherapy is medically necessary; or

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

(ii) The 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 for each diagnosis payable to such firefighter upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board certified physician in the medical specialty appropriate for the type of cancer involved that either:

(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. A monthly benefit of one thousand five hundred dollars, of which the first payment shall be made six months after total disability and submission of acceptable proof of said disability to the insurance carrier or other payor that such disability is caused by cancer and that such cancer precludes the firefighter from serving as a firefighter. Such benefit shall continue for up to thirty-six consecutive monthly payments.

(i) Such monthly benefit shall be subordinate to any other benefit actually paid to the firefighter solely 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 herein; and

(ii) Any firefighter receiving such monthly benefits may be required to have his or her condition reevaluated. In the event any such reevaluation reveals that such person has regained the ability to perform duties as a firefighter, then his or her monthly benefits shall cease the last day of the month of reevaluation.

(iii) In the event that there is a subsequent reoccurrence of a disability caused by cancer which precludes the firefighter from serving as a firefighter, he or she shall be entitled to receive any remaining monthly payments.

d. An eligible volunteer firefighter shall also be entitled to an additional payment of enhanced cancer death benefits in the amount of fifty thousand dollars which is payable to such volunteer or his or her beneficiary upon acceptable proof by a board certified physician that such firefighter's death resulted from complications associated with cancer.

e. Provided however, an eligible volunteer firefighter shall be ineligible for these benefits if they are already provided paid firefighter benefits under this article.

3. The combined total of all benefits received by any eligible volunteer firefighter pursuant to paragraphs a and b of subdivision two of this section during his or her lifetime shall not exceed fifty thousand dollars.

4. An eligible volunteer firefighter shall remain eligible for benefits pursuant to paragraphs a, b and d of subdivision two of this section for sixty months after the formal cessation of the volunteer firefighter's status as an active volunteer firefighter. The fire district, department or company in which such firefighter served shall be responsible for payment of all premiums or other costs associated with benefits provided under paragraphs a, b and d of subdivision two of this section throughout the duration of the eligible volunteer firefighter's coverage.

5. A fire district, department or company shall, no later than January first, two thousand nineteen, show proof of insurance coverage that meets the requirements of this section or shall show satisfactory proof of the ability to pay such compensation to ensure adequate coverage for all eligible volunteer firefighters. Such coverage shall remain in effect until sixty months after the fire district, department or company no longer has any volunteer firefighters who could qualify for this benefit.

6. Any fire district, department or company that has had a volunteer firefighter file a claim for or receive an enhanced cancer disability benefit under the provisions of this section shall report such claims filed, claims paid and types of claims to the office of fire prevention and control. Beginning on January first, two thousand twenty, the office of fire and prevention control shall report annually to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee and the chair of the assembly ways and means committee the number of firefighters who have filed claims pursuant to this section and the number of firefighters who have received benefits under the provisions of this section.

7. The office of fire prevention and control, in consultation with the department of financial services and the workers' compensation board, shall adopt such rules and regulations as are reasonable and necessary to implement the provisions of this section. Such regulations shall include the process by which a firefighter files a claim for the enhanced cancer disability benefit, how the beneficiary of such eligible volunteer firefighter files a claim for the enhanced cancer death benefit, the process by which claimants can appeal a denial of benefits and what proof is deemed acceptable to qualify for such benefits.

§ 3. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 42 to read as follows:

(42) Insurance payments received by an eligible volunteer firefighter for the cancer disability 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 effective immediately, the addition and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; and provided further, however, that the regulations required pursuant to subdivision 7 of section 205-cc of the general municipal law as added by section two of this act shall be finalized no later than June 1, 2018.