

STATE OF NEW YORK

6898--C

Cal. No. 397

2017-2018 Regular Sessions

IN SENATE

October 4, 2017

Introduced by Sens. GOLDEN, AVELLA, CARLUCCI, GALLIVAN, KAMINSKY, LARKIN, MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, 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 administrative code of the city of New York, in relation to sick leave for officers and employees with a qualifying World Trade Center condition; to amend the civil service law, in relation to the review of certain claims; and to amend chapter 273 of the laws of 2017 amending the general municipal law relating to granting sick leave for officers and employees with a qualifying World Trade Center condition, in relation to the reimbursement of any public authority or municipal corporation in a city with a population of less than one million people for the cost of certain line of duty sick leave

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

1 Section 1. Section 92-d of the general municipal law, as added by
2 chapter 273 of the laws of 2017, is amended to read as follows:
3 § 92-d. Sick leave for officers and employees with a qualifying World
4 Trade Center condition. Notwithstanding any other law, rule or regu-
5 lation to the contrary, officers and employees of the state, a public
6 authority or any municipal corporation outside of a city with a popu-
7 lation of one million or more who [~~filed-a~~] have filed and received

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

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1 approval for such filed notice of participation in World Trade Center
2 rescue, recovery or cleanup operations and subsequently develop a quali-
3 fying World Trade Center condition, as defined in section two of the
4 retirement and social security law, ~~[while employed by the state, a~~
5 ~~public authority or such municipal corporation or public authority]~~
6 shall, after the receipt of a written request for line of duty sick
7 leave, be granted line of duty sick leave commencing on the date that
8 such employee was diagnosed with a qualifying World Trade Center condi-
9 tion regardless of whether such officer or employee was employed by his
10 or her current employer at the time that such officer or employee
11 participated in World Trade Center rescue, recovery or cleanup oper-
12 ations. The officer or employee shall be compensated at his or her
13 regular rate of pay for those regular work hours during which the offi-
14 cer or employee is absent from work due to his or her qualifying World
15 Trade Center condition. Such leave shall be provided without loss of an
16 officer or employee's accrued sick leave. Nothing in this section shall
17 limit an employer's power pursuant to any other provision of law to
18 discipline an officer or employee by termination, reduction of salary,
19 or any other appropriate measure; to terminate an appointee who has not
20 completed his or her probationary term; and to apply for ordinary or
21 accident disability retirement for an officer or employee.

22 § 2. The opening paragraph of section 92-d of the general municipal
23 law is designated subdivision 1 and seven new subdivisions 2, 3, 4, 5,
24 6, 7 and 8 are added to read as follows:

25 2. Notwithstanding any other law, rule or regulation to the contrary,
26 officers and employees of a city with a population of one million or
27 more who (i) do not receive benefits similar to those provided by this
28 section pursuant to a collectively bargained agreement, section 14-122.1
29 of the administrative code of the city of New York, section 15-108.1 of
30 the administrative code of the city of New York, or other statutory
31 provision and (ii) have filed and received approval for such filed
32 notice of participation in World Trade Center rescue, recovery or clean-
33 up operations and subsequently develop a qualifying World Trade Center
34 condition, as defined in section two of the retirement and social secu-
35 rity law, shall, after receipt of a written request for line of duty
36 sick leave, be granted line of duty sick leave commencing on the date
37 that such employee was diagnosed with a qualifying World Trade Center
38 condition regardless of whether such officer or employee was employed by
39 his or her current employer at the time that such officer or employee
40 participated in World Trade Center rescue, recovery or cleanup oper-
41 ations. The officer or employee shall be compensated at his or her regu-
42 lar rate of pay for those regular work hours during which the officer or
43 employee is absent from work due to his or her qualifying World Trade
44 Center condition. Such leave shall be provided without loss of an offi-
45 cer or employee's accrued sick leave. Nothing in this section shall
46 limit an employer's power pursuant to another provision of law to disci-
47 pline an officer or employee by termination, reduction of salary, or any
48 other appropriate measure; to terminate an appointee who has not
49 completed his or her probationary term; and to apply for ordinary or
50 accident disability retirement for an officer or employee.

51 3. For purposes of this section, "cost" shall mean the number of days
52 of sick leave that must be restored to an officer or employee pursuant
53 to subdivision one or two of this section multiplied by such officer or
54 employee's wage rate at the time that such sick leave for which
55 reimbursement is being sought was taken.

1 4. A request, for line of duty sick leave shall be in writing and
2 include a waiver of the protection afforded to the officer or employee
3 pursuant to the health insurance portability and accountability act to
4 allow disclosure of the officer or employee's approved notice of partic-
5 ipation and any medical records concerning such officer or employee's
6 notice of participation or qualifying World Trade Center condition in
7 the possession of the retirement system in which such officer or employ-
8 ee is a member for the purpose of reviewing, processing and auditing his
9 or her claim for line of duty sick leave. Such waiver shall be in the
10 form required by the retirement system of which he or she is a member,
11 along with the application for line of duty sick leave, with his or her
12 employer.

13 5. Notwithstanding any provision of law to the contrary, upon request
14 from the state, public authority or municipal corporation outside of a
15 city with a population of one million or more for a copy of an approved
16 notice of participation in World Trade Center rescue, recovery or clean-
17 up operations for an officer or employee, the retirement system in which
18 such officer or employee is a member and to which such officer or
19 employee filed his or her notice of participation in World Trade Center
20 rescue, recovery or cleanup operations in accordance with paragraph (a)
21 of subdivision thirty-six of section two of the retirement and social
22 security law, such retirement system shall provide a verified copy of
23 such approved notice of participation that includes the date that such
24 notice was filed to such requestor. A copy of such verified notice of
25 participation shall be filed with any claim for reimbursement submitted
26 to the civil service commission pursuant to subdivision four of this
27 section. Except as required for filing, review, and audit purposes, such
28 verified notice of participation and all copies of such verified notice
29 shall be confidential and not subject to disclosure pursuant to article
30 six of the public officers law.

31 6. A public authority or municipal corporation outside of a city with
32 a population of one million or more shall submit any claim for
33 reimbursement under this section to the civil service commission. In
34 accordance with subdivision one-a of section six of the civil service
35 law, the civil service commission shall review each claim to determine
36 if such claim shall be approved, reduced, amended or rejected and shall
37 notify the submitting public authority or municipal corporation, within
38 sixty days of receipt of such claim, as to its determination. Such
39 public authority or municipal corporation shall notify the civil service
40 commission within thirty days after receipt of the civil service commis-
41 sion's notification, as to its acceptance or rejection of such determi-
42 nation. Failure to so notify the civil service commission shall consti-
43 tute an acceptance of the determination. If accepted by such public
44 authority or municipal corporation, such acceptance shall constitute the
45 final and conclusive determination for such claim. If rejected by such
46 public authority or municipal corporation, such public authority or
47 municipal corporation shall resubmit its claim, within thirty days after
48 receipt of the civil service commission's notification, together with
49 its reasons for objection and any additional documentation which may
50 justify its claim. Upon receipt of a resubmitted claim, the civil
51 service commission shall review such claim and within sixty days of
52 receipt of such resubmitted claim, make a final determination as to the
53 amount to be approved for such claim. If such public authority or munic-
54 ipal corporation shall dispute such final determination it may commence
55 an action, within sixty days of such final determination, in the court
56 of claims which shall have jurisdiction to adjudicate the claim and

1 enter judgment, which judgment shall be a final determination for
2 purposes of this section and shall be payable in accordance with the
3 provisions of this section.

4 7. The civil service commission shall certify all claims for which a
5 final determination has been made. The civil service commission shall
6 submit all certified claims to the comptroller of the department of
7 audit and control on or before the first day of the immediately succeed-
8 ing month during which such claim was certified.

9 8. All claims certified by the civil service commission shall be paid
10 monthly and shall be paid upon a warrant from the comptroller.

11 § 3. Section 6 of the civil service law is amended by adding a new
12 subdivision 1-a to read as follows:

13 1-a. Have the power to review claims for reimbursement submitted by
14 public authorities or municipal corporations outside of a city with a
15 population of a million or more pursuant to section ninety-two-d of the
16 general municipal law to determine if such claim shall be approved,
17 reduced, amended or rejected. Such review and determination shall be
18 made in accordance with section ninety-two-d of the general municipal
19 law.

20 § 4. Section 2 of chapter 273 of the laws of 2017, amending the gener-
21 al municipal law relating to granting sick leave for officers and
22 employees with a qualifying World Trade Center condition, is amended to
23 read as follows:

24 § 2. The state shall reimburse any public authority or municipal
25 corporation with a population of less than one million people for the
26 cost of any line duty sick leave granted pursuant to this act. Such
27 reimbursement shall be made in accordance with the provisions of section
28 92-d of the general municipal law.

29 § 5. The administrative code of the city of New York is amended by
30 adding a new section 12-140 to read as follows:

31 § 12-140 Line of duty sick leave for World Trade Center rescue, recov-
32 ery or cleanup operations. Notwithstanding any other law, rule or regu-
33 lation to the contrary, officers and employees of a city with a popu-
34 lation of one million or more who (i) do not receive benefits similar to
35 those provided by this section pursuant to a collectively bargained
36 agreement, section 14-122.1 of this code, section 15-108.1 of this code,
37 or other statutory provision and (ii) filed and received approval for
38 such filed notice of participation in World Trade Center rescue, recov-
39 ery or cleanup operations and subsequently develop a qualifying World
40 Trade Center condition, as defined in section two of the retirement and
41 social security law, shall, after receipt of a written request for line
42 of duty sick leave, be granted line of duty sick leave commencing on the
43 date that such employee was diagnosed with a qualifying World Trade
44 Center condition regardless of whether such officer or employee was
45 employed by his or her current employer at the time that such officer or
46 employee participated in World Trade Center rescue, recovery or cleanup
47 operations. The officer or employee shall be compensated at his or her
48 regular rate of pay for those regular work hours during which the offi-
49 cer or employee is absent from work. Such leave shall be provided with-
50 out loss of an officer or employee's accrued sick leave. Nothing in this
51 section shall limit an employer's power pursuant to another provision of
52 law to discipline an officer or employee by termination, reduction of
53 salary, or any other appropriate measure; to terminate an appointee who
54 has not completed his or her probationary term; and to apply for ordi-
55 nary or accident disability retirement for an officer or employee.

1 § 6. The commissioner of the department of civil service, in consulta-
2 tion with the state comptroller and the commissioner of the department
3 of taxation and finance, shall promulgate rules and regulations to
4 assist with the implementation of section 92-d of the general municipal
5 law. Such rules and regulations shall be issued no later than 90 days
6 after this act shall have become a law. Notwithstanding any other
7 provisions to the contrary in the state administrative procedure act,
8 such rules and regulations may be adopted on an emergency basis if
9 necessary to meet such 90-day deadline.

10 § 7. The commissioner of the department of taxation and finance, in
11 consultation with the state comptroller, shall issue guidance regarding
12 the tax treatment to officers and employees who have received restored
13 sick leave no later than sixty days after this act shall have become a
14 law.

15 § 8. This act shall take effect immediately; provided that section one
16 of this act shall be deemed to have been in full force and effect on the
17 same date as chapter 273 of the laws of 2017; and provided further that
18 this act shall apply to all claims for reimbursement filed pursuant to
19 section 92-d of the general municipal law, as amended by this act; and
20 provided further, that any officer or employee who is currently employed
21 by a city with a population of one million or more who has been diag-
22 nosed with a qualifying World Trade Center condition and is using sick
23 leave due to such condition shall receive a restoration of such sick
24 leave retroactive to the date such officer or employee was diagnosed
25 with a qualifying World Trade Center condition.