

# STATE OF NEW YORK

10476

## IN ASSEMBLY

May 22, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fall) --  
read once and referred to the Committee on Governmental Employees

AN ACT to amend the general municipal law, in relation to line of duty  
sick leave for first responders due to a pandemic virus

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

1 Section 1. The general municipal law is amended by adding a new  
2 section 92-e to read as follows:

3 § 92-e. Sick leave for officers and employees due to a pandemic virus.  
4 1.(a) Notwithstanding any other law, rule or regulation to the contrary,  
5 any police officer as defined by subdivision thirty-four of section 1.20  
6 of the criminal procedure law, member of an organized fire company or  
7 fire department of a city, town, village or fire district, emergency  
8 medical technician or advanced emergency medical technician as such  
9 terms are defined by section three thousand one of the public health  
10 law, or paramedic who was exposed or came into contact with a pandemic  
11 virus and such individual tests positive for, or displays symptoms of,  
12 such pandemic virus, shall, after submitting to his or her employer a  
13 written request for line of duty sick leave, be granted line of duty  
14 sick leave commencing on the date that such employee was diagnosed with  
15 or began displaying symptoms of the pandemic virus. Such officer or  
16 employee shall be compensated at his or her regular rate of pay for  
17 those regular work hours during which such officer or employee is absent  
18 from work due to his or her diagnosis or symptoms of a pandemic virus.  
19 Such leave shall be provided without loss of an officer or employee's  
20 accrued sick leave.

21 (b) An employer shall not take any adverse personnel action against an  
22 employee regarding such employee's employment because either (i) such  
23 employee utilizes, or requests to utilize, sick leave or any other  
24 available leave due to a pandemic virus, or (ii) such employee utilizes  
25 or requests to utilize line of duty sick leave provided by this section.

26 2. (a) Notwithstanding any other law, rule or regulation to the  
27 contrary, any police officer as defined by subdivision thirty-four of  
28 section 1.20 of the criminal procedure law, member of an organized fire

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

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1 company or fire department of a city, town, village or fire district,  
2 emergency medical technician or advanced emergency medical technician as  
3 such terms are defined by section three thousand one of the public  
4 health law, or paramedic, who do not receive benefits similar to those  
5 provided by this section pursuant to a collectively bargained agreement,  
6 section 14-122.1 of the administrative code of the city of New York,  
7 section 15-108.1 of the administrative code of the city of New York, or  
8 other statutory provision and who was exposed or came into contact with  
9 a pandemic virus and such individual tests positive for or displays  
10 symptoms of such pandemic virus, shall, after submitting to his or her  
11 employer a written request for line of duty sick leave, be granted line  
12 of duty sick leave commencing on the date that such employee was diag-  
13 nosd with or began displaying symptoms of the pandemic virus. Such  
14 officer or employee shall be compensated at his or her regular rate of  
15 pay for those regular work hours during which such officer or employee  
16 is absent from work due to his or her diagnosis or symptoms of a pandem-  
17 ic virus. Such leave shall be provided without loss of an officer or  
18 employee's accrued sick leave.

19 (b) An employer shall not take any adverse personnel action against an  
20 employee regarding such employee's employment because either (i) such  
21 employee utilizes, or requests to utilize, sick leave or any other  
22 available leave due to a pandemic virus, or (ii) such employee utilizes  
23 or requests to utilize line of duty sick leave provided by this section.

24 3. Nothing in this section shall limit an employer's power pursuant to  
25 any other provision of law to discipline an officer or employee by  
26 termination, reduction of salary, or any other appropriate measure; to  
27 terminate an appointee who has not completed his or her probationary  
28 term; and to apply for ordinary or accident disability retirement for an  
29 officer or employee.

30 4. A request for line of duty sick leave shall be in writing and  
31 include a waiver of the protection afforded to the officer or employee  
32 pursuant to the health insurance portability and accountability act to  
33 allow disclosure of the officers or employee's exposure or contact with  
34 a pandemic virus and such police officer's or employee's positive test  
35 for such pandemic virus and any medical records concerning such offi-  
36 cer's or employee's notice of exposure or contact with such pandemic  
37 virus and such police officer's or employee's positive test for such  
38 pandemic virus in the possession of the retirement system in which such  
39 officer or employee is a member for the purpose of reviewing, processing  
40 and auditing his or her claim for line of duty sick leave. Such waiver  
41 shall be in the form required by the retirement system of which he or  
42 she is a member, along with the application for line of duty sick leave,  
43 with his or her employer.

44 5. For the purposes of this section, the following terms shall have  
45 the following meanings:

46 (a) "Adverse personnel action" shall mean any discipline, including  
47 issuing a notice of discipline, discharge, suspension, demotion, penali-  
48 zation, or discrimination against an employee utilizing line of duty  
49 sick leave pursuant to paragraph (a) of subdivision one or subdivision  
50 two of this section.

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

1     (c) "Pandemic virus" shall mean a virus (i) that is classified as a  
2     pandemic by the World Health Organization; and (ii) which causes the  
3     governor to declare a state declaration of disaster emergency pursuant  
4     to section twenty-eight of the executive law.

5     § 2. The state shall reimburse any public authority or municipal  
6     corporation of less than one million people for the cost of any line of  
7     duty sick leave granted pursuant to this act.

8     § 3. This act shall take effect immediately.