

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 nosied 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.