STATE OF NEW YORK

11078

IN ASSEMBLY

October 7, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Steck) -- read once and referred to the Committee on Local Governments

AN ACT to amend the volunteer firefighters' benefit law and the volunteer ambulance workers' benefit law, in relation to increasing certain disability payments and specifying payments for volunteer firefighters and ambulance workers injured in the line of duty on or after July first, two thousand twenty

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

Section 1. Section 8 of the volunteer firefighters' benefit law, as amended by chapter 401 of the laws of 2016, is amended to read as follows:

§ 8. Permanent total disability benefits. In the case of total disability adjudged to be permanent the volunteer firefighter shall be paid [~~six~~] **nine** hundred dollars for each week during the continuance thereof. Permanent total disability, within the meaning of this section, shall exist only if the earning capacity of the volunteer firefighter has been lost permanently and totally as the result of the injury. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, shall, in the absence of conclusive proof to the contrary, constitute permanent total disability, but in all other cases permanent total disability shall be determined in accordance with the facts. Notwithstanding any other provisions of this chapter, an injured volunteer firefighter disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or any two thereof shall not suffer any diminution of such weekly benefit by engaging in business or employment provided his or her weekly earnings or wages, when combined with his or her weekly benefit shall not be in excess of eight hundred dollars; and further provided that the application of this section shall not result in reduction of benefits which an injured volunteer firefighter who is disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or any two thereof would otherwise be entitled to under any other provisions of this article.

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

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§ 2. Section 9 of the volunteer firefighters' benefit law, as amended by chapter 924 of the laws of 1990, is amended to read as follows:

§ 9. Temporary total disability benefits. In the case of temporary total disability the volunteer firefighter shall be paid one hundred twenty-five dollars for each week during the continuance thereof; provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred seventy-eight to December thirty-first, nineteen hundred seventy-eight, said firefighter shall receive one hundred eighty dollars per week during the continuance thereof; and further provided, that when the volunteer firefighter is injured in the line of duty on or after January first, nineteen hundred seventy-nine to June thirtieth, nineteen hundred eighty-three, said firefighter shall receive two hundred fifteen dollars per week during the continuance thereof; and further provided, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-three to June thirtieth, nineteen hundred eighty-four, said firefighter shall receive two hundred fifty-five dollars per week during the continuance thereof; and further provided, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-four to June thirtieth, nineteen hundred eighty-five, said firefighter shall receive two hundred seventy-five dollars per week during the continuance thereof; and further provided, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-five to June thirtieth, nineteen hundred ninety, said firefighter shall receive three hundred dollars per week during the continuance thereof; and further provided, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety to June thirtieth, nineteen hundred ninety-one, said firefighter shall receive three hundred forty dollars per week during the continuance thereof; and further provided, that when a volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-one to June thirtieth, nineteen hundred ninety-two, said firefighter shall receive three hundred fifty dollars per week during the continuance thereof; and further provided, that when a volunteer firefighter is injured in the line of duty on or after July first, [~~nineteen hundred ninety-two~~] **two thousand twenty**, said firefighter shall receive [~~four~~] **nine** hundred dollars per week during the continuance thereof. Temporary total disability, within the meaning of this section, shall exist only if the earning capacity of the volunteer firefighter has been lost temporarily and totally as the result of the injury. In case of temporary total disability and permanent partial disability both resulting from the same injury, if the temporary total disability continues for a longer period than the number of weeks set forth in the following schedule, the period of temporary total disability in excess of such number of weeks shall be added to the period provided in section ten of this article: arm, thirty-two weeks; leg, forty weeks; hand, thirty-two weeks; foot, thirty-two weeks; ear, twenty-five weeks; eye, twenty weeks; thumb, twenty-four weeks; first finger, eighteen weeks; great toe, twelve weeks; second finger, twelve weeks; third finger, eight weeks; fourth finger, eight weeks; toe other than great toe, eight weeks. In any case resulting in loss or partial loss of use of arm, leg, hand, foot, ear, eye, thumb, finger or toe, where the temporary total disability does not extend beyond the periods above mentioned for such injury, benefits shall be limited to the schedule contained in section ten of this article.

§ 3. The opening paragraph and paragraph (g) of subdivision 1 of section 10 of the volunteer firefighters' benefit law, the opening paragraph as amended by chapter 21 of the laws of 1991, paragraph (g) as amended by chapter 584 of the laws of 1974, the opening subparagraph and subparagraph 4 of paragraph (g) as amended by chapter 476 of the laws of 2018 and subparagraphs 1 and 2 of paragraph (g) as amended by chapter 924 of the laws of 1990, are amended to read as follows:

In the case of disability partial in character, but permanent in quality, the volunteer firefighter shall be paid ninety-five dollars for each week for the period specified in this subdivision, provided, however, that when the volunteer firefighter is injured in the line of duty on or after January first, nineteen hundred seventy-eight to June thirtieth, nineteen hundred eighty-three, such payment shall be one hundred five dollars for each week, and further provided that when a volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-three to and including June thirtieth, nineteen hundred eighty-four, such payments shall be one hundred twenty-five dollars for each week and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-four to and including June thirtieth, nineteen hundred eighty-five such payments shall be one hundred thirty-five dollars for each week and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-five to and including June thirtieth, nineteen hundred ninety such payments shall be one hundred fifty dollars for each week, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one such payments shall be two hundred eighty dollars for each week, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two such payments shall be three hundred fifty dollars for each week, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-two such payments shall be four hundred dollars for each week, **and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, two thousand twenty such payments shall be nine hundred dollars for each week** as follows:

(g) Other cases. In all other cases of permanent partial disability the volunteer firefighter shall be paid for each week during the continuance thereof, as follows:

1. If the percentage of loss of earning capacity is seventy-five per centum, or greater, he or she shall be paid ninety-five dollars for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after January first, nineteen hundred seventy-eight to and including June thirtieth, nineteen hundred eighty-three, such payment shall be one hundred five dollars for each week provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-three to and including June thirtieth, nineteen hundred eighty-four, such payment shall be one hundred twenty-five dollars for each week provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-four to and including June thirtieth, nineteen hundred eighty-five such payment shall be one hundred thirty-five dollars for each week, provided, however, that when

the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-five to and including June thirtieth, nineteen hundred ninety such payment shall be one hundred fifty dollars for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one such payment shall be two hundred eighty dollars for each week, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two such payment shall be three hundred fifty dollars for each week, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-two such payment shall be four hundred dollars for each week**, and provided further that when the volunteer firefighter is injured in the line of duty on or after July first, two thousand twenty such payment shall be nine hundred dollars for each week**;

2. If the percentage of loss of earning capacity is fifty per centum, or greater, but less than seventy-five per centum, he or she shall be paid sixty-three dollars and thirty-three cents for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after January first, nineteen hundred seventy-eight to and including June thirtieth, nineteen hundred eighty-three, such payment shall be seventy dollars for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-three to and including June thirtieth, nineteen hundred eighty-four such payment shall be eighty-three dollars and thirty-three cents for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-four, to and including June thirtieth, nineteen hundred eighty-five, such payment shall be ninety dollars for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred eighty-five to and including June thirtieth, nineteen hundred ninety such payment shall be one hundred dollars for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one such payment shall be one hundred eighty-six dollars and seventy-six cents for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two such payment shall be two hundred thirty-four dollars and fifty cents for each week, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, nineteen hundred ninety-two such payment shall be two hundred sixty-eight dollars for each week**, provided, however, that when the volunteer firefighter is injured in the line of duty on or after July first, two thousand twenty such payment shall be five hundred thirty-six dollars for each week**;

3. If the percentage of loss of earning capacity is twenty-five per centum, or greater, but less than fifty per centum, he shall be paid [~~thirty~~] **two hundred** dollars for each week;

4. If the percentage of loss of earning capacity is less than twenty-five per centum, he or she shall [~~not~~] be paid [~~any weekly benefit. Permanent partial disability, within the meaning of this paragraph, shall exist only if the earning capacity of the volunteer firefighter~~

~~has been permanently and partially lost as the result of the injury. The workers' compensation board shall determine the degree of such disability and such board may reconsider such degree on its own motion or upon application of any party in interest~~] fifty dollars for each week.

§ 4. Section 8 of the volunteer ambulance workers' benefit law, as amended by chapter 401 of the laws of 2016, is amended to read as follows:

§ 8. Permanent total disability benefits. In the case of total disability adjudged to be permanent the volunteer ambulance worker shall be paid [~~six~~] nine hundred dollars for each week during the continuance thereof. Permanent total disability, within the meaning of this section, shall exist only if the earning capacity of the volunteer ambulance worker has been lost permanently and totally as the result of the injury. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, shall, in the absence of conclusive proof to the contrary, constitute permanent total disability, but in all other cases permanent total disability shall be determined in accordance with the facts. Notwithstanding any other provisions of this chapter, an injured volunteer ambulance worker disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or any two thereof shall not suffer any diminution of such weekly benefit by engaging in business or employment provided his or her weekly earnings or wages, when combined with his weekly benefit shall not be in excess of eight hundred dollars; and further provided that the application of this section shall not result in reduction of benefits which an injured volunteer ambulance worker who is disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or any two thereof would otherwise be entitled to under any other provisions of this article.

§ 5. Section 9 of the volunteer ambulance workers' benefit law, as amended by chapter 924 of the laws of 1990, is amended to read as follows:

§ 9. Temporary total disability benefits. In the case of temporary total disability the volunteer ambulance worker shall be paid three hundred dollars for each week during the continuance thereof; provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after the effective date of this chapter to June thirtieth, nineteen hundred ninety; further provided, that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety to June thirtieth, nineteen hundred ninety-one, said ambulance worker shall receive three hundred forty dollars per week during the continuance thereof, and further provided, that when a volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-one to June thirtieth, nineteen hundred ninety-two, said ambulance worker shall receive three hundred fifty dollars per week during the continuance thereof; provided further that when a volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-two such ambulance worker shall be paid four hundred dollars for each week during the continuance thereof; provided further that when a volunteer ambulance worker is injured in the line of duty on or after July first, two thousand twenty such ambulance worker shall be paid nine hundred dollars for each week during the continuance thereof. Temporary total disability, within the meaning of this section, shall exist only if the earning capacity of the volunteer ambulance worker has been lost temporarily and totally as the result of the injury. In case of temporary total disability and perma-

nent partial disability both resulting from the same injury, if the temporary total disability continues for a longer period than the number of weeks set forth in the following schedule, the period of temporary total disability in excess of such number of weeks shall be added to the period provided in section ten of this chapter: arm, thirty-two weeks; leg, forty weeks; hand, thirty-two weeks; foot, thirty-two weeks; ear, twenty-five weeks; eye, twenty weeks; thumb, twenty-four weeks; first finger, eighteen weeks; great toe, twelve weeks; second finger, twelve weeks; third finger, eight weeks, fourth finger, eight weeks; toe other than great toe, eight weeks. In any case resulting in loss or partial loss of use of arm, leg, hand, foot, ear, eye, thumb, finger or toe, where the temporary total disability does not extend beyond the periods above mentioned for such injury, benefits shall be limited to the schedule contained in section ten of this chapter.

§ 6. The opening paragraph and paragraph g of subdivision 1 of section 10 of the volunteer ambulance workers' benefit law, the opening paragraph as amended by chapter 21 of the laws of 1991, paragraph g as amended by chapter 604 of the laws of 1989 and subparagraphs 1 and 2 of paragraph g as amended by chapter 924 of the laws of 1990, are amended to read as follows:

In the case of disability partial in character, but permanent in quality, the volunteer ambulance worker, injured in the line of duty shall be paid one hundred fifty dollars for each week for the period specified in this subdivision, provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after the effective date of this chapter to and including June thirtieth, nineteen hundred ninety, and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one such payments shall be two hundred eighty dollars for each week, and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two such payments shall be three hundred fifty dollars for each week; and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-two such payments shall be four hundred dollars for each week**; and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, two thousand twenty such payments shall be nine hundred dollars for each week** as follows:

g. Other cases. In all other cases of permanent partial disability the volunteer ambulance worker shall be paid for each week, during the continuance thereof, as follows:

(1) If the percentage of loss of earning capacity is seventy-five per centum, or greater, he or she shall be paid one hundred fifty dollars for each week, provided, however, that the volunteer ambulance worker is injured in the line of duty on or after the effective date of this chapter to and including June thirtieth, nineteen hundred ninety, provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one such payment shall be two hundred eighty dollars for each week, and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two such payment shall be three hundred fifty dollars for each week; and provided further that when the volunteer

ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-two such payments shall be four hundred dollars for each week**; and provided further that when the volunteer ambulance worker is injured in the line of duty on or after July first, two thousand twenty, such payments shall be nine hundred dollars for each week**.

(2) If the percentage of loss of earning capacity is fifty per centum, or greater, but less than seventy-five per centum, he or she shall be paid one hundred dollars for each week, provided, however, that the volunteer ambulance worker is injured in the line of duty on or after the effective date of this chapter to and including June thirtieth, nineteen hundred ninety, provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety to and including June thirtieth, nineteen hundred ninety-one, such payment shall be one hundred eighty-six dollars and seventy-six cents for each week, provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-one to and including June thirtieth, nineteen hundred ninety-two, such payment shall be two hundred thirty-four dollars and fifty cents for each week; provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after July first, nineteen hundred ninety-two, such payment shall be two hundred sixty-eight dollars for each week**; provided, however, that when the volunteer ambulance worker is injured in the line of duty on or after July first, two thousand twenty, such payment shall be five hundred thirty-six dollars for each week**.

(3) If the percentage of loss of earning capacity is twenty-five percentum, or greater, but less than fifty per centum, he or she shall be paid [~~thirty~~] **two hundred** dollars for each week.

(4) If the percentage of loss of earning capacity is less than twenty-five per centum, he or she shall [~~not~~] be paid [~~any weekly benefit~~] **fifty dollars per week**.

Permanent partial disability, within the meaning of this paragraph, shall exist only if the earning capacity of the volunteer ambulance worker has been permanently and partially lost as the result of the injury. The workers' compensation board shall determine the degree of such disability and such board may reconsider such degree on its own motion or upon application of any party in interest.

§ 7. This act shall take effect immediately.