

STATE OF NEW YORK

5890

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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
8 approval for such filed notice of participation in World Trade Center
9 rescue, recovery or cleanup operations and subsequently develop a quali-
10 fying World Trade Center condition, as defined in section two of the
11 retirement and social security law, ~~[while employed by the state, a~~
12 ~~public authority or such municipal corporation or public authority]~~
13 shall, after the receipt of a written request for line of duty sick
14 leave, be granted line of duty sick leave commencing on the date that
15 such employee was diagnosed with a qualifying World Trade Center condi-
16 tion regardless of whether such officer or employee was employed by his
17 or her current employer at the time that such officer or employee

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

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1 participated in World Trade Center rescue, recovery or cleanup oper-
2 ations. The officer or employee shall be compensated at his or her
3 regular rate of pay for those regular work hours during which the offi-
4 cer or employee is absent from work due to his or her qualifying World
5 Trade Center condition. Such leave shall be provided without loss of an
6 officer or employee's accrued sick leave. Nothing in this section shall
7 limit an employer's power pursuant to any other provision of law to
8 discipline an officer or employee by termination, reduction of salary,
9 or any other appropriate measure; to terminate an appointee who has not
10 completed his or her probationary term; and to apply for ordinary or
11 accident disability retirement for an officer or employee.

12 § 2. The opening paragraph of section 92-d of the general municipal
13 law is designated subdivision 1 and seven new subdivisions 2, 3, 4, 5,
14 6, 7 and 8 are added to read as follows:

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

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

46 4. A request, for line of duty sick leave shall be in writing and
47 include a waiver of the protection afforded to the officer or employee
48 pursuant to the health insurance portability and accountability act to
49 allow disclosure of the officer or employee's approved notice of partic-
50 ipation and any medical records concerning such officer or employee's
51 notice of participation or qualifying World Trade Center condition in
52 the possession of the retirement system in which such officer or employ-
53 ee is a member for the purpose of reviewing, processing and auditing his
54 or her claim for line of duty sick leave. Such waiver shall be in the
55 form required by the retirement system of which he or she is a member,

1 along with the application for line of duty sick leave, with his or her
2 employer.

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

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

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

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

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

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

§ 4. Section 2 of 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, is amended to read as follows:

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

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

§ 12-140 Line of duty sick leave for World Trade Center rescue, recovery or cleanup operations. Notwithstanding any other law, rule or regulation to the contrary, officers and employees of a city with a population of one million or more who (i) do not receive benefits similar to those provided by this section pursuant to a collectively bargained agreement, section 14-122.1 of this code, section 15-108.1 of this code, or other statutory provision and (ii) filed and received approval for such filed notice of participation in World Trade Center rescue, recovery or cleanup operations and subsequently develop a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, shall, after receipt of a written request for line of duty sick leave, be granted line of duty sick leave commencing on the date that such employee was diagnosed with a qualifying World Trade Center condition regardless of whether such officer or employee was employed by his or her current employer at the time that such officer or employee participated in World Trade Center rescue, recovery or cleanup operations. The officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the officer or employee is absent from work. Such leave shall be provided without loss of an officer or employee's accrued sick leave. Nothing in this section shall limit an employer's power pursuant to another provision of law to discipline an officer or employee by termination, reduction of salary, or any other appropriate measure; to terminate an appointee who has not completed his or her probationary term; and to apply for ordinary or accident disability retirement for an officer or employee.

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

§ 7. The commissioner of the department of taxation and finance, in consultation with the state comptroller, shall issue guidance regarding

1 the tax treatment to officers and employees who have received restored
2 sick leave no later than sixty days after this act shall have become a
3 law.
4 § 8. This act shall take effect immediately; provided that section one
5 of this act shall be deemed to have been in full force and effect on the
6 same date as chapter 273 of the laws of 2017; and provided further that
7 this act shall apply to all claims for reimbursement filed pursuant to
8 section 92-d of the general municipal law, as amended by this act; and
9 provided further, that any officer or employee who is currently employed
10 by a city with a population of one million or more who has been diag-
11 nosed with a qualifying World Trade Center condition and is using sick
12 leave due to such condition shall receive a restoration of such sick
13 leave retroactive to the date such officer or employee was diagnosed
14 with a qualifying World Trade Center condition.