STATE OF NEW YORK

2597

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FALL, DARLING, SIMON, O'DONNELL -- 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:

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

§ 92-e. Sick leave for officers and employees due to a pandemic virus. 1.(a) Notwithstanding any other law, rule or regulation to the contrary, any police officer as defined by subdivision thirty-four of section 1.20 of the criminal procedure law, member of an organized fire company or fire department of a city, town, village or fire district, emergency medical technician or advanced emergency medical technician as such terms are defined by section three thousand one of the public health law, or paramedic who was exposed or came into contact with a pandemic virus and such individual tests positive for, or displays symptoms of, such pandemic virus, shall, after submitting to his or her employer 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 or began displaying symptoms of the pandemic virus. Such officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which such officer or employee is absent from work due to his or her diagnosis or symptoms of a pandemic virus. Such leave shall be provided without loss of an officer or employee's accrued sick leave.

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

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

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2. (a) Notwithstanding any other law, rule or regulation to the contrary, any police officer as defined by subdivision thirty-four of section 1.20 of the criminal procedure law, member of an organized fire company or fire department of a city, town, village or fire district, emergency medical technician or advanced emergency medical technician as such terms are defined by section three thousand one of the public health law, or paramedic, who do not receive benefits similar to those provided by this section pursuant to a collectively bargained agreement, section 14-122.1 of the administrative code of the city of New York, section 15-108.1 of the administrative code of the city of New York, or other statutory provision and who was exposed or came into contact with a pandemic virus and such individual tests positive for or displays symptoms of such pandemic virus, shall, after submitting to his or her employer 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 or began displaying symptoms of the pandemic virus. Such officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which such officer or employee is absent from work due to his or her diagnosis or symptoms of a pandemic virus. Such leave shall be provided without loss of an officer or employee's accrued sick leave.

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

3. Nothing in this section shall limit an employer's power pursuant to any other 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.

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

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

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

(b) "Cost" shall mean the number of days of sick leave that must be restored to an officer or employee pursuant to subdivision one or two of this section multiplied by such officer or employee's wage rate at the

time that such sick leave for which reimbursement is being sought was taken.

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

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

§ 3. This act shall take effect immediately.