

STATE OF NEW YORK

10597

IN SENATE

May 28, 2026

Introduced by Sen. MARTINEZ -- 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, the volunteer firefighters' benefit law and the town law, in relation to providing pay per call and paid on call stipends for volunteer firefighters and travel expense reimbursement for call response; to amend the labor law, in relation to the definitions of "employee" and remuneration; to amend the civil service law, in relation to providing volunteer firefighters in the exempt class; to amend the tax law, in relation to including nominal fees paid to volunteer firefighters within the New York adjusted gross income of a resident individual; and to amend the general municipal law, in relation to establishing the volunteer fire service nominal compensation assistance fund

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 200-aaa to read as follows:

3 § 200-aaa. Pay per call and paid on call nominal compensation
4 (stipends) for volunteer firefighters. 1. For purposes of this section:

5 (a) "fire department" and "fire company" shall have the meanings as
6 defined in section three of the volunteer firefighters' benefit law;

7 (b) "nominal fee" means payment to a volunteer firefighter of a
8 stipend, fee, gift card or gift certificate, gratuity, or other qualify-
9 ing item of monetary value;

10 (c) "pay per call compensation (stipend)" means payment of a nominal
11 fee to a volunteer firefighter of a stipend for response to an emergency
12 call of their fire department or fire company as defined in the local
13 rules and regulations established for the program;

14 (d) "paid on call compensation (stipend)" means a payment of a nominal
15 fee to a volunteer firefighter for participating in a standby activity
16 as defined in the local rules and regulations established for the
17 program;

18 (e) "volunteer firefighter" shall have the same meaning as defined in
19 section three of the volunteer firefighters' benefit law. An active

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

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1 volunteer firefighter may participate in a pay per call and paid on call
2 stipend program adopted under this statute and such participation shall
3 not cause that volunteer firefighter or call firefighter to be consid-
4 ered a paid firefighter as that term is used in section one hundred
5 seventy-six of the town law or any other statute;

6 (f) "call firefighter" means a volunteer firefighter participating in
7 a pay per call and paid on call compensation (stipend) program. Such
8 participation shall not change such firefighter's volunteer status; and

9 (g) "authority having jurisdiction" means the governing body of a
10 city, town, village, or fire district which maintains a volunteer fire
11 department or volunteer fire company and elects to provide a nominal fee
12 to volunteer firefighters pursuant to this section.

13 2. The governing body of a city, town, village, fire district, fire
14 protection district, any other entity that operates a volunteer fire
15 department or company, an independent volunteer fire company, or an
16 independent fire company may by local law, ordinance, or resolution,
17 elect to authorize a fire company under its jurisdiction to provide a
18 nominal fee to volunteer firefighters for each response to a fire or
19 other emergency and/or providing certain standby services.

20 3. A pay per call and/or paid on call compensation (stipend) program
21 for volunteer firefighters approved by the governing body of a city,
22 town, village, fire district, fire protection district, or any other
23 entity that elects to authorize a volunteer fire department or company,
24 an independent volunteer fire company, or an independent fire company to
25 provide a nominal fee to volunteer firefighters shall promulgate basic
26 rules for the program. The program may later be discontinued by the
27 authority having jurisdiction in the same manner it elected to start a
28 program if it determines that the program no longer is in the best
29 interests of the community served. Only the authority having jurisdic-
30 tion may authorize the expenditure of its operating funds on such
31 program. A volunteer fire department or company, an independent volun-
32 teer fire company, or an independent fire company that operates as a
33 fire corporation may authorize the expenditure of department, company or
34 corporate funds on the program with the consent of the authority having
35 jurisdiction. A volunteer firefighter may only receive compensation or
36 be paid one stipend per activity.

37 4. The amount of such pay per call compensation (stipends) shall be
38 set by the entity that has authorized the program:

39 (a) Total annual nominal compensation per volunteer firefighter paid
40 pursuant to this section shall be less than an amount which would result
41 in the nominal fee being regarded as compensation and subject to the
42 "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., for the
43 volunteer's first responder services; and

44 (b) Exempt from payroll and income taxation under New York state law;
45 and

46 (c) Any nominal fee provided under this section shall not be deemed
47 remuneration or gratuity under the volunteer firefighters' benefit law
48 or any other provision of law and shall not interfere with or impact the
49 volunteer status of volunteer firefighters under the volunteer fire-
50 fighters' benefit law or any other provision of law; and

51 (d) Any nominal fee provided shall neither alter nor impair the rights
52 or abilities of a volunteer firefighter as a participant entitled to
53 receive benefits pursuant to article eleven-A of this chapter.

54 5. Volunteer firefighters may waive their right to participate in a
55 pay per call and paid on call compensation (stipend) program created for
56 their fire department or fire company and may respond to emergency calls

1 without receiving any stipend payments. Volunteer firefighters wishing
2 to waive their right to participate in the program shall file a written
3 waiver with the authority managing the program on the form it creates
4 for that purpose. Failure to register for the program if registration is
5 required shall also serve as a waiver.

6 6. Volunteer firefighters receiving pay per call and paid on call
7 stipends must meet all criteria and requirements necessary to be an
8 active volunteer firefighter. They shall meet all entry level and peri-
9 odic physical examination requirements set by the authority having
10 jurisdiction over the fire department or fire company and approved by
11 its physician to permit volunteer firefighters to respond to emergency
12 calls and render assistance at emergency calls. They shall meet all
13 training requirements for volunteer firefighters established by the
14 office of fire prevention and control best practices initiative, the
15 department of health (relative to rendering emergency medical services)
16 and the local authority having jurisdiction over the fire department or
17 fire company. They shall meet attendance requirements set by the local
18 authority having jurisdiction over the fire department or fire company.
19 The authority having jurisdiction over a program may deny payments to
20 personnel who do not meet those requirements.

21 7. Eligible personnel will be active members, who are adequately
22 trained and qualified to rapidly respond to all types of emergency
23 calls. No nominal fee shall be paid to personnel who do not respond to
24 emergency calls on apparatus, ambulances, and vehicles to the scene of
25 these emergency calls and meet all the minimum qualifications set forth,
26 based upon rules set for emergency responses by the authority having
27 jurisdiction.

28 8. Volunteer firefighters receiving a nominal fee under this section
29 shall be permitted to earn points and receive payments under a service
30 award program adopted for their fire department or fire company under
31 article eleven-A of this chapter.

32 § 2. Subdivision 3 of section 3 of the volunteer firefighters' benefit
33 law, as amended by section 1 of part H of chapter 55 of the laws of
34 2023, is amended to read as follows:

35 3. "Line of duty" means the performance by a volunteer firefighter as
36 a volunteer firefighter of the duties and activities described in subdi-
37 vision one of section five of this chapter and the same such duties and
38 activities performed for a specialized team established pursuant to the
39 provisions of section two hundred nine-bb of the general municipal law
40 for which the volunteer firefighter does not receive any remuneration or
41 a gratuity and shall be deemed to include any date of injury as deter-
42 mined by the workers' compensation board pursuant to the provisions of
43 section forty-one of this chapter. The following shall not be deemed to
44 be remuneration or a gratuity: receipt of a training stipend as outlined
45 in section two hundred-aa of the general municipal law; a payment of a
46 nominal fee outlined in section two hundred-aaa of the general municipal
47 law; reimbursement of expenses for meals, lodging and actual and neces-
48 sary travel; the receipt of a mileage allowance in lieu of travel
49 expense; reimbursement of expenses for registration and tuition fees
50 payable under section seventy-two-g of the general municipal law, and
51 the acceptance of transportation, food, drink, shelter, clothing and
52 similar items while on duty or engaged in such activities.

53 § 3. Paragraph c of subdivision 1 of section 205-g of the general
54 municipal law, as amended by section 3 of part H of chapter 55 of the
55 laws of 2023, is amended to read as follows:

1 c. "Line of duty" means the performance by a volunteer firefighter of
2 the duties and activities described in subdivision one of section five
3 of the volunteer firefighters' benefit law and the same such duties and
4 activities performed for a specialized team established pursuant to the
5 provisions of section two hundred nine-bb of this article for which the
6 volunteer firefighter does not receive any remuneration or a gratuity
7 and shall be deemed to include any date of injury as determined by the
8 workers' compensation board pursuant to the provisions of section
9 forty-one of the volunteer firefighters' benefit law. The following
10 shall not be deemed to be remuneration or a gratuity: reimbursement of
11 expenses for meals, lodging and actual and necessary travel; the receipt
12 of a mileage allowance in lieu of travel expense; reimbursement of
13 expenses for registration and tuition fees payable under section seven-
14 ty-two-g of this chapter, the acceptance of transportation, food, drink,
15 shelter, clothing and similar items while on duty or engaged in such
16 activities; ~~and~~ receipt of a training stipend as outlined in section
17 two hundred-aa of this article; and payment of a nominal fee as outlined
18 in section two hundred-aaa of this article or section seventy-two-g of
19 this chapter.

20 § 4. Subdivision 2 of section 517 of the labor law is amended by
21 adding a new paragraph (j) to read as follows:

22 (j) Any nominal fee paid to a volunteer firefighter pursuant to
23 section two hundred-aaa or section seventy-two-g of the general munici-
24 pal law.

25 § 5. Paragraphs (c), (m) and (n) of subdivision 5 of section 651 of
26 the labor law, as amended by chapter 391 of the laws of 2024, are
27 amended to read as follows:

28 (c) as an outside ~~salesman~~ salesperson;

29 (m) by a federal, state or municipal government or political subdivi-
30 sion thereof, including volunteer firefighters as defined in section
31 three of the volunteer firefighters' benefit law; (n) as a volunteer at
32 a recreational or amusement event run by a business that operates such
33 events, provided that no single such event lasts longer than eight
34 consecutive days and no more than one such event concerning substantial-
35 ly the same subject matter occurs in any calendar year, where (1) any
36 such volunteer shall be at least eighteen years of age, (2) a business
37 seeking coverage under this paragraph shall notify every volunteer in
38 writing, in language acceptable to the commissioner, that by volunteer-
39 ing ~~his or her~~ their services, such volunteer is waiving ~~his or her~~
40 their right to receive the minimum wage pursuant to this article, and
41 (3) such notice shall be signed and dated by a representative of the
42 business and the volunteer and kept on file by the business for thirty-
43 six months;

44 § 6. Paragraph (e) of subdivision 1 of section 41 of the civil service
45 law, as added by chapter 790 of the laws of 1958, is amended and a new
46 paragraph (f) is added to read as follows:

47 (e) all other subordinate offices or positions for the filling of
48 which competitive or non-competitive examination may be found to be not
49 practicable. Not more than one appointment shall be made to or under the
50 title of any office or position placed in the exempt class pursuant to
51 the provisions of this paragraph, unless a different number is specif-
52 ically prescribed in the rules~~[-]~~; and

53 (f) all volunteer firefighters as defined by section three of the
54 volunteer firefighters' benefit law.

55 § 7. Subdivision 7 of section 201 of the civil service law is amended
56 by adding a new paragraph (h) to read as follows:

1 (h) The term "public employee" shall not mean a volunteer firefighter
2 as defined by section three of the volunteer firefighters' benefit law
3 for purposes of this article.

4 § 8. Subsection (c) of section 612 of the tax law is amended by adding
5 a new paragraph 41-a to read as follows:

6 (41-a) The amount of any nominal consideration paid to a volunteer
7 firefighter as provided for in sections two hundred-aaa and
8 seventy-two-g of the general municipal law, to the extent that such
9 amount is includable in gross income for federal income tax purposes.

10 § 9. Section 209-d of the general municipal law, as amended by chapter
11 476 of the laws of 2018, is amended to read as follows:

12 § 209-d. Contracts for outside service by volunteer fire departments
13 and companies. Notwithstanding any other provision of law, no contract
14 shall be made by a municipality or fire district whereby the services of
15 a volunteer fire department or company are to be supplied outside of
16 such municipality or fire district to provide (1) fire protection, (2)
17 emergency service in case of accidents, calamities or other emergencies,
18 or (3) general ambulance service pursuant to the provisions of section
19 two hundred nine-b of this article, unless such volunteer fire depart-
20 ment or company consents thereto. Any such contract may provide for the
21 payment of a portion of the consideration expressed therein to such
22 volunteer fire department or company to be expended for fire department
23 or company purposes only. If the municipality or fire district owns all
24 of the fire apparatus to be used in carrying out the contract, the
25 portion of the consideration which may be paid to such volunteer fire
26 department or company shall not exceed thirty-five per centum, unless a
27 greater portion was being so paid on March fifteenth, nineteen hundred
28 forty-one, under a contract entered into on or before that date, in
29 which event a not greater portion than was being paid on said date may
30 be paid to such volunteer fire department or company in respect to any
31 contract entered into on or after such date. No payments shall be made
32 to individual volunteer firefighters as compensation for rendering such
33 outside service. The payment of a nominal fee to a volunteer firefighter
34 pursuant to section two hundred-aaa of this article and section seven-
35 ty-two-g of this chapter shall not constitute compensation for rendering
36 such outside service.

37 § 10. The section heading of section 72-g of the general municipal
38 law, as amended by chapter 236 of the laws of 2006, is amended and a
39 new subdivision 4 is added to read as follows:

40 Expenses of volunteer firefighters attending training schools and
41 instruction courses, and reimbursement for travel expenses incurred in
42 response to emergency calls.

43 4. The governing body of a city, town, village, fire district, fire
44 protection district, any other entity that operates a volunteer fire
45 department or company, an independent volunteer fire company, or an
46 independent fire company may by local law, ordinance, or resolution,
47 elect to authorize volunteer firefighters serving a fire department or
48 fire company under their control to be permitted to receive reimburse-
49 ment for travel expenses related to responding to emergency calls of
50 said department or company and may fund the cost of such reimbursement.
51 Such volunteer firefighters may be paid a reasonable mileage allowance
52 for each mile actually and necessarily traveled by the volunteer fire-
53 fighter in attending such emergency call of their fire department. Such
54 mileage allowance shall not exceed the standard travel allowance for
55 mileage adopted or prescribed for federal income tax purposes. Any
56 claim for such expenses or reimbursement shall have endorsed thereon, or

1 attached thereto, a statement by the chief officer of the fire depart-
2 ment that the attendance of such volunteer at said emergency call was
3 verified and that the volunteer responded to the scene of the emergency
4 in accordance with the rules of the department or company. In the alter-
5 native the reimbursement program may provide a gasoline gift card valued
6 at the cost of the fuel that would have been used for such emergency
7 responses.

8 § 11. Subdivision 18 of section 176 of the town law is amended by
9 adding a new paragraph 18 to read as follows:

10 (18) the cost of providing a pay per call or paid on call stipend
11 program for volunteer firefighters of the fire department and fire
12 companies of the fire district pursuant to section two hundred-aaa of
13 the general municipal law and the cost of providing travel expense
14 reimbursements for volunteer firefighters responding to emergency calls
15 pursuant to section seventy-two-g of the general municipal law.

16 § 12. The general municipal law is amended by adding a new section
17 210-a to read as follows:

18 § 210-a. Volunteer fire service nominal compensation assistance fund.

19 1. There is hereby established in the custody of the comptroller to be
20 known as the "volunteer fire service nominal compensation assistance
21 fund" (hereinafter the "fund"). The fund shall consist of moneys appro-
22 propriated thereto by the legislature, any grants, gifts, or bequests made
23 to the fund from any public or private source, and any interest or
24 investment earnings accrued thereon. The sum of fifteen million dollars
25 is hereby authorized to be appropriated to the fund for the initial
26 capitalization thereof, subject to appropriation by the legislature.

27 2. Moneys in the fund shall be used exclusively to provide financial
28 assistance to eligible fire districts and fire companies for the purpose
29 of establishing, administering, and funding nominal fee programs author-
30 ized pursuant to this section. No moneys from the fund shall be used for
31 any capital expenditure, apparatus purchase, administrative overhead
32 unrelated to the nominal compensation program, or any purpose other than
33 the direct payment of nominal fees to volunteer firefighters as defined
34 in this section.

35 3. To be eligible to receive moneys from the fund, the governing board
36 of the applicable city, village, or town authorities having, by law,
37 control over the prevention or extinguishment of fires therein as set
38 forth in paragraph (e) of section fourteen hundred two of the not-for-
39 profit corporation law shall demonstrate that:

40 (a) the annual revenues of the fire company whose members would be
41 eligible to receive a nominal fee are below the audit threshold estab-
42 lished pursuant to section two hundred nine-z of this chapter, as such
43 thresholds may be amended from time to time, which thresholds currently
44 require independent certified public accountant audits for fire compa-
45 nies whose annual revenues meet or exceed applicable statutory minimums,
46 such that eligible applicants under this section are those whose annual
47 revenues fall below the applicable audit threshold and who are therefore
48 not required to obtain an independent certified public accountant audit
49 of their financial statements under current law;

50 (b) the governing board of the applicable city, village, or town has
51 authorized the payment of nominal fees to volunteer firefighters pursu-
52 ant to section two hundred ten of this article by local law, ordinance,
53 or resolution;

54 (c) to further these objectives, the governing board of the applicable
55 city, village, or town, by resolution, shall adopt internal policies and
56 procedures governing the award and administration of any funds used for

1 providing nominal consideration and shall review annually such policies
2 and procedures;

3 (d) the governing board of a city, village, or town authorities having
4 control over the prevention or extinguishment of fires therein has
5 submitted its annual financial report to the office of the state comp-
6 troller in such form and containing such information as the office shall
7 prescribe, including documentation of annual revenues sufficient to
8 establish eligibility under paragraph (a) of this subdivision; and

9 (e) the city, village or town authorities having control over the
10 prevention or extinguishment of fires therein and the fire company or
11 companies thereof are in compliance with all applicable financial
12 reporting and accountability requirements imposed by law.

13 4. To be eligible to receive moneys from the fund, the governing board
14 of the applicable fire district having, by law, control over the
15 prevention or extinguishment of fires therein as set forth in paragraph
16 (e) of section fourteen hundred two of the not-for-profit corporation
17 law shall demonstrate that:

18 (a) the annual revenues of each such fire district and fire company
19 are below the audit threshold established pursuant to section one
20 hundred eighty-four-a of the town law and two hundred nine-z of this
21 chapter, as such thresholds may be amended from time to time, which
22 thresholds currently require independent certified public accountant
23 audits for fire districts and fire companies whose annual revenues meet
24 or exceed applicable statutory minimums, such that eligible applicants
25 under this section are those whose annual revenues fall below the appli-
26 cable audit threshold and who are therefore not required to obtain an
27 independent certified public accountant audit of their financial state-
28 ments under current law;

29 (b) the governing board of the fire district has authorized the
30 payment of nominal fees to volunteer firefighters pursuant to this
31 section by local law, ordinance, or resolution;

32 (c) to further these objectives, the governing board of the fire
33 district, by resolution, shall adopt internal policies and procedures
34 governing the award and administration of any funds used for providing
35 nominal consideration and shall review annually such policies and proce-
36 dures;

37 (d) the governing board of the fire district as the authority having
38 control over the prevention or extinguishment of fires therein has
39 submitted its Annual Financial Report to the Office of the State Comp-
40 troller in such form and containing such information as the office shall
41 prescribe including documentation of annual revenues sufficient to
42 establish eligibility under paragraph (a) of this subdivision; and

43 (e) the fire district having control over the prevention or extin-
44 quishment of fires therein and the fire company or companies thereof are
45 in compliance with all applicable financial reporting and accountability
46 requirements imposed by law.

47 5. The office of the state comptroller shall:

48 (a) establish an application process and publish guidelines for the
49 submission and review of applications for assistance from the fund,
50 which guidelines shall be made publicly available on such office's
51 website;

52 (b) review applications and determine eligibility in accordance with
53 the criteria set forth in subdivision three of this section;

54 (c) distribute moneys from the fund to eligible fire districts and
55 fire companies on an annual basis, subject to the availability of appro-
56 riated funds;

1 (d) establish maximum grant amounts per eligible applicant per year,
2 which shall be determined based on the number of active volunteer fire-
3 fighters in the fire district or fire company, the demonstrated need of
4 the applicant and the total amount of moneys available in the fund;

5 (e) require each authority having jurisdiction or fire company recipi-
6 ent to submit an annual report to the office detailing the use of all
7 moneys received from the fund, including the name of each volunteer
8 firefighter who received a nominal fee, the amount paid to each such
9 firefighter, and the basis for such payment; and

10 (f) promulgate such rules and regulations as may be necessary to
11 implement the provisions of this section, including but not limited to
12 rules governing application procedures, eligibility determinations,
13 grant award criteria, reporting requirements, and procedures for recov-
14 ery of funds in the event of misuse or noncompliance.

15 6. All moneys distributed from the fund shall be subject to audit by
16 the state comptroller. Any fire district or fire company that receives
17 moneys from the fund and is found to have used such moneys for any
18 purpose other than as authorized by this section shall be required to
19 repay to the fund all moneys so misused, and may be ineligible to
20 receive further moneys from the fund for a period of five years from the
21 date of such determination in the absence of good cause shown by the
22 fund recipient.

23 7. In the event that the total amount of eligible applications exceeds
24 the moneys available in the fund in any given year, the office shall
25 give priority to applicants with the lowest annual revenues and to
26 applicants that have not previously received moneys from the fund, in
27 order to ensure equitable distribution of available resources to the
28 authorities having jurisdiction and fire companies most in need of
29 assistance.

30 8. If any provision of this section or the application thereof to any
31 person or circumstance shall be adjudged invalid, such invalidity shall
32 not affect other provisions or applications of this section which can be
33 given effect without the invalid provision.

34 § 13. Severability clause. If any clause, sentence, paragraph, subdi-
35 vision, section or part of this act shall be adjudged by any court of
36 competent jurisdiction to be invalid, such judgment shall not affect,
37 impair, or invalidate the remainder thereof, but shall be confined in
38 its operation to the clause, sentence, paragraph, subdivision, section
39 or part thereof directly involved in the controversy in which such judg-
40 ment shall have been rendered. It is hereby declared to be the intent of
41 the legislature that this act would have been enacted even if such
42 invalid provisions had not been included herein.

43 § 14. This act shall take effect on the one hundred twentieth day
44 after it shall have become a law.