



THE NEW YORK STATE ASSOCIATION OF AUXILIARY POLICE

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The Volunteer Peace Officer's Benefit Law

A04368-A & S03701-A
(A08779 & S05624A of 2008)

This legislation is vastly important to:

- 1) Consolidate uniformed volunteer members of law enforcement agencies within the State of New York, including but not limited to Auxiliary Police, Special Deputy Sheriffs, Reserve Sheriffs/Police, Special Police, Reserve Police, SPCA, SPCC, Search and Rescue Squads, and Public Safety Emergency Officers.
- 2) Establish legal authority for law-enforcement agencies to conduct volunteer law enforcement operations.
- 3) Establish legal authority for volunteer officers to perform their duties.
- 4) Establish recruiting standards.
- 5) Increase minimal training standards.
- 6) Provide deserved benefits.
- 7) Protect uniformed volunteers in law enforcement agencies. and
- 8) Protect law enforcement agencies from liability lawsuits due to lack of workers compensation coverage.

Passage of this legislation will legalize existing volunteer officers and operations as well as help recruit and retain current members.

There has been some confusion about The Volunteer Peace Officer bill
I am told that some people think it will mandate costs to the local government.

There are no unfunded mandates in this bill. It is an Opt-in bill

We realize benefits cost money.

We know that the benefits to Volunteer Fire Fighters & Volunteer Ambulance Worker come not only from the state but also some costs are paid by the local government.

Some of the benefits are tax breaks on real property or income.
These Tax Breaks have costs too.

But even when the local government is willing to give benefits to these volunteers, they can't without the state's approval.

This bill will allow the local government to give these volunteers the title "Volunteer Peace Officer."
They must be trained as Peace Officers and meet the standards set by the DCJS.

Only Volunteer Peace Officers will get the benefits.

If the local government doesn't register them as Volunteer Peace Officers with DCJS, they will not be covered by the bill.



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STATUS:

A4368 Heastie No Same as
Executive Law

TITLE....Enacts the volunteer peace officers' benefit law; provides for qualifications, insurance and other benefits

02/03/09 referred to codes

SUMMARY:

HEASTIE, SCHIMEL, BENJAMIN, ROSENTHAL; M-S: Ball, Brook-Krasny, Christensen, Conte, Corwin, Hawley, Hooper, Hyer-Spencer, Lancman, Lavine, V. Lopez, Lupardo, Maisel, McDonough, McEneny, McKevitt, Pheffer, P. Rivera, Saladino, Thiele, Townsend, Walker, Weinstein

Add Volunteer Peace Officers' Benefit Law, Chap 64-c of Consolidated Laws; amd S837, Exec L; add S206-c, Gen Muni L

Enacts the volunteer peace officers' benefits law; provides for qualifications, insurance and other benefits; defines all relevant terms; requires physical, eye sight, agility and psychological exams.

STATUS:

S3701 ADDABBO Same as [A 4368](#) Heastie
Executive Law

TITLE....Enacts the volunteer peace officers' benefit law; provides for qualifications, insurance and other benefits

03/30/09 REFERRED TO FINANCE

SUMMARY:

ADDABBO, MAZIARZ, ADAMS, DIAZ, FLANAGAN, FUSCHILLO, HANNON, HUNTLEY, LARKIN, MONSERRATE, ONORATO, OPPENHEIMER, SAMPSON, SAVINO, STACHOWSKI, STAVISKY, VALESKY

Add Volunteer Peace Officers' Benefits Law, Chap 64-C of Consolidated Laws; amd S837, Exec L; add S206-c, Gen Muni L

Enacts the volunteer peace officers' benefits law; provides for qualifications, insurance and other benefits; defines all relevant terms; requires physical, eye sight, agility and psychological exams.



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History **A8779 of 2008:**

STATUS:

A8779 Heastie Same as [S 5624-A](#) MAZIARZ
Executive Law

TITLE....Enacts the volunteer peace officers' benefit law; provides for qualifications, insurance and other benefits

05/30/07 referred to codes

01/09/08 referred to codes

06/05/08 reported referred to ways and means

SUMMARY:

HEASTIE, P. RIVERA, LANCMAN; M-S: Hooper, V. Lopez, Lupardo, Pheffer, Schimel, Weinstein

Add Volunteer Peace Officers' Benefit Law, Chap 64-c of Consolidated Laws; amd S837, Exec L; add S206-c, Gen Muni L

Enacts the volunteer peace officers' benefits law; provides for qualifications, insurance and other benefits; defines all relevant terms; requires physical, eye sight, agility and psychological exams.

History **S5624-A of 2008 :**

STATUS:

S5624-A MAZIARZ Same as [A 8779](#) Heastie
Executive Law

TITLE....Enacts the volunteer peace officers' benefit law; provides for qualifications, insurance and other benefits

04/25/07 REFERRED TO LOCAL GOVERNMENT

05/15/07 AMEND (T) AND RECOMMIT TO LOCAL GOVERNMENT

05/15/07 PRINT NUMBER 5624A

01/09/08 REFERRED TO LOCAL GOVERNMENT

SUMMARY:

MAZIARZ, DeFRANCISCO, FLANAGAN, HANNON, LARKIN, LIBOUS, MALTESE, MORAHAN, NOZZOLIO, WINNER

Add Volunteer Peace Officers' Benefit Law, Chap 64-c of Consolidated Laws; amd S837, Exec L; add S206-c, Gen Muni L

Enacts the volunteer peace officers' benefits law; provides for qualifications, insurance and other benefits; defines all relevant terms; requires physical, eye sight, agility and psychological exams.



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SPONSORS MEMO:

NEW YORK STATE SENATE INTRODUCER'S MEMORANDUM IN SUPPORT submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S3701-A

SPONSOR: ADDABBO

TITLE OF BILL:

An act in relation to creating the volunteer peace officer benefit law, and to amend the executive law and the general municipal law, in relation to volunteer peace officer programs

PURPOSE:

To consolidate and streamline the statute dealing with auxiliary police, also to create an auxiliary police benefit law.

SUMMARY OF PROVISIONS:

Various sections seek to codify the existence of auxiliary police, while creating a benefit for them based on that given to volunteer fireman and ambulance workers.

JUSTIFICATION:

This legislation is vastly important to:

- 1) Consolidate uniformed volunteer members of law enforcement agencies within the State of New York, including but not limited to Auxiliary Police, Special Deputy Sheriffs, Reserve Sheriffs/Police, Special Police, Reserve Police, SPCA, SPCC, Search and Rescue Squads, and Public Safety Emergency Officers;
- 2) Establish legal authority for law-enforcement agencies to conduct volunteer law enforcement operations;
- 3) Establish legal authority for volunteer officers to perform their duties;
- 4) Establish recruiting standards;
- 5) Increase minimal training standards;
- 6) Provide deserved benefits;
- 7) Protect uniformed volunteers in law enforcement agencies;
- and 8) Protect law enforcement agencies from liability lawsuits due to lack of workers compensation coverage. Passage of this legislation will legalize existing volunteer officers and operations as well as help recruit and retain current members.



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AUTHORITY

The establishment of Auxiliary Police or Special Deputy Sheriffs was mandated by the New York State Defense Emergency Act of 1951. At that time, auxiliary police were organized and empowered to direct vehicular traffic to air raid shelters and to perform crowd control functions at those shelters in the event of a nuclear attack CPL 2,10(26) provides the authority for auxiliary police to direct and control traffic during a period of attack or imminent attack by enemy forces or during "official drills".

PROBLEM

With the cold war over and changing needs, all Auxiliary Police units are extensively utilized by law enforcement agencies for many activities which are far outside of the original intent and scope of the Act and authority granted by CPL 2.10(26). Auxiliary police officers volunteer their time to perform these assigned duties at substantial personal risk. When performing duties without legal authority, auxiliary police officers do not have workers compensation protection for medical treatment, lost wages and are exposed to personal liability. In fact, seriously injured auxiliary police officers have found themselves without compensation and an auxiliary police officer was found to be personally liable for a car accident while driving a marked auxiliary police car (see Fitzgibbon, infra).

Without proper legal authority for auxiliary police officers to perform routine duties, the law enforcement agencies they work for are vulnerable to lawsuits for injuries sustained Under the workers compensation law, when employees are covered by workers compensation' their employers cannot be liable for injuries sustained on the job because auxiliary police officers do not have workers compensation insurance, they can maintain liability actions against the agencies for whom they work Providing legal authority to auxiliary police officers will provide them with workers compensation coverage and also protect the law enforcement agencies for whom they work.

AUTHORIZED ACTIVITIES

Other than attack or imminent attack by enemy forces, only official drills can be authorized. An official drill is a "single-event" training exercise to be performed on a specific date. A request for authorization to perform a training exercise at an event must be requested of the state by the law-enforcement agency in writing prior to the date at the event.

UNAUTHORIZED ACTIVITIES

Because it is usually impractical to request authorization to conduct an official drill in advance of events and the time needed to fill out requests, blanket requests covering a period of time such as one year are sometimes filed by police departments. Blanket requests, to "drill" over a



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broad period of time are not authorized and no benefits or protections will be afforded to auxiliary police officers performing under a blanket request. An example of a drill which can qualify as an authorized official drill, under the proper circumstances, is traffic control and/or crowd control at a particular scheduled event.

Official drills are not contemplated by the Act to include routine or daily functions, which comprise 99% of assigned auxiliary police duties. In fact, in David Fitzgibbon, Jr., Plaintiff-Respondent v the County of Nassau, the Auxiliary Police Unit 316, et al, Appellants-Respondents, the Supreme Court of the State of New York Appellate Division, Second Department, ruled that routine patrols were not contemplated by the Act and held the auxiliary police officer and his auxiliary police unit liable for injuries caused.

UNAUTHORIZED DUTIES PERFORMED

The duties and activities of auxiliary police vary considerably, depending upon the needs of the police department, and usually include monthly minimum hourly requirements for performing routine patrols and traffic control at details, none of which is authorized by the state. Failure to meet the minimum hourly requirements will result in termination of the auxiliary police officer. Virtually all auxiliary police activities are outside of the scope of the Act and the CPL, placing volunteer officers at great personal risk, liability, and without workers compensation protection for medical coverage, pharmaceutical bills, household help, lost wages and other benefits. Duties which are not authorized official drills, outside the scope of the Act and commonly assigned on a routine daily basis by law enforcement agencies to auxiliary police consist of the following: 1) Directing traffic at accidents, inoperable traffic lights, power outages, parades, fairs, religious and most special events; 2) Assisting police with crowd control at school, religious and most special events; 3) Nightly patrols' in squad cars to find and report crime and accidents to supervising law enforcement agencies, as a deterrent to crime by maintaining a visible public presence, and to observe, detect and report suspicious activity and possible terrorism; 4) Issuing complaints for handicap parking violations; 5) Providing additional eyes for police officers at traffic stops; and 6) Assisting in locating missing persons. Additional unauthorized duties assigned by some police departments may include: Searches for missing persons; Emergency rescues; Riding as second man in patrol cars; Performing administrative work for police, departments; Patrolling trains, subway platforms and bus terminals; and assisting with animal humane law enforcement.

Although these assigned duties are important to police departments, they are being performed without any authority of law. Due to fear of liability, some counties and cities have disbanded their Auxiliary Police Programs, in the late 1970's, despite the mandate of the Act.



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Auxiliary Police officers drive patrol cars that resemble Police Cars and wear similar uniforms carrying a nightstick and handcuffs (some auxiliary departments carry guns), but many do not have the same protective equipment a police officer would have to protect himself. To recruit new members and retain current members, it is imperative that law enforcement agencies receive sufficient funds to purchase protective equipment for volunteer members and that while on duty Auxiliary Police Officers have the same statutory protection of a Peace Officer that other uniformed services have.

TRAINING

Not all Auxiliary Police have the same recruiting, training and minimum standards. A uniform system of recruiting, operations and training under the auspices of NYS DCJS would help to solidify procedures, rules and regulations.

PARITY

Auxiliary Police DO NOT have a Benevolent Law like The Volunteer Firefighters' Benefit Law and the Volunteer Ambulance Workers' Benefit Law which provide real estate tax credits, a service award program, and workers compensation benefits for medical care, lost wages, and other benefits to volunteer members who are injured or become ill in the line of duty. Recognizing the unselfish service of volunteer firefighters and volunteer ambulance workers, laws designed to protect such volunteers who are injured or become ill in the line of duty, were enacted in 1957 and 1989, respectively. Auxiliary police volunteers deserve the same protection those volunteers receive including real estate tax credits, a service award program, and workers compensation benefits.

This new legislation would help to create proposed minimum standards with which all units would need to comply in order to reap the benefits that will, hopefully, be gained with this legislation. The benefits can act as incentive for the various forces to voluntarily comply with the proposed minimum standards.

It is unreasonable to expect a viable and modern volunteer force existing today and providing tremendous aid to the various communities in which they serve, to work without reasonable benefits in dangerous conditions and without legal authority under the guise of a law that came about in 1950 and did not foresee current needs.

LEGISLATIVE HISTORY:

2007-2008 S5624 & A8779

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.



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BILL TEXT:

STATE OF NEW YORK

3701-A

2009-2010 Regular Sessions

IN SENATE

March 30, 2009

Introduced by Sens. ADDABBO, MAZIARZ, ADAMS, DIAZ, FLANAGAN, FUSCHILLO, HANNON, HUNTLEY, MONSERRATE, ONORATO, OPPENHEIMER, SAMPSON, SAVINO, STACHOWSKI, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to creating the volunteer peace officer benefit law, and to amend the executive law and the general municipal law, in relation to volunteer peace officer programs

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

1 Section 1. Chapter 64-c of the consolidated laws is added to read as
2 follows:

3 VOLUNTEER PEACE OFFICERS' BENEFIT LAW

4		§	
5	Article	I. SHORT TITLE; PURPOSE; DEFINITIONS	1-3
6		II. COVERAGE AND BENEFITS	5-25
7		III. LIABILITY FOR BENEFITS; INSURANCE	30-32
8		IV. PROCEDURE	40-61
9		V. EFFECT WITH OTHER LAWS	90

10 ARTICLE I

11 SHORT TITLE; PURPOSE; DEFINITIONS

12 Section 1. Short title.
13 2. Purpose.
14 3. Definitions.

15 § 1. Short title. This chapter shall be known and may be cited as the
16 "volunteer peace officers' benefit law".

17 § 2. Purpose. In recognition of the unselfish service given to the
18 people of New York state by these volunteer peace officers, government
19 has undertaken to provide for them and their families some measure of
20 protection against loss from death or injuries in the line of duty. This
21 chapter establishes a system of benefits for volunteer peace officers

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

LBD11597-02-7



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S. 3701

2

1 and provides for the administration of such system by the workers'
2 compensation board and the chairman of such board.

3 It is hereby declared that this chapter is intended to effectuate the
4 objects and purposes of section eighteen of article one of the state
5 constitution and that the relationship between the political subdivision
6 or law enforcement agency liable for benefits under this chapter and a
7 volunteer peace officer entitled to such benefits is that of employer
8 and employee within the meaning of such provision of the state constitu-
9 tion.

10 § 3. Definitions. As used in this chapter:

11 1. "Volunteer peace officer" means an active volunteer member of a law
12 enforcement agency as specified on a list regularly maintained by that
13 agency for the purpose of this chapter.

14 2. "Law enforcement agency" means any police department, sheriff's
15 office, local child protective services agency, society for the
16 prevention of cruelty to animals, or any agency authorized by law or by
17 a government agency to engage in or supervise the prevention, detection,
18 investigation, or prosecution of any violation of criminal law.

19 3. "Line of duty" means the performance by a volunteer as a volunteer
20 peace officer of the duties and activities for which the volunteer peace
21 officer does not receive any remuneration or a gratuity and shall be
22 deemed to include any date of injury as determined by the workers'
23 compensation board pursuant to the provisions of section forty-one of
24 this chapter. The following shall not be deemed to be remuneration or a
25 gratuity: reimbursement of expenses for meals, lodging and actual and
26 necessary travel; the receipt of a mileage allowance in lieu of travel
27 expense; and the acceptance of transportation, food, drink, shelter,
28 clothing and similar items while on duty or engaged in such activities.

29 4. "Injury" means any disablement of a volunteer peace officer that
30 results from services performed in line of duty and such disease or
31 infection as may naturally and unavoidably result from an injury.

32 5. "Child" includes a posthumous child, a child legally adopted prior
33 to the injury of the volunteer peace officer; and a step-child or
34 acknowledged child born out of wedlock dependent upon the deceased
35 volunteer peace officer.

36 6. "Surviving spouse" means the legal wife of a deceased male volun-
37 teer peace officer or the legal husband of a deceased female volunteer
38 peace officer, as the case may be, but shall not include a spouse who
39 has abandoned the deceased. The term "abandoned", as used in this subdi-
40 vision, means such an abandonment as would be sufficient under section
41 two hundred of the domestic relations law to sustain a judgment of sepa-
42 ration on that ground.

43 7. "Dependent" means a surviving spouse entitled to receive benefits
44 under this chapter, whether or not actually dependent upon a volunteer
45 peace officer, unless a contrary meaning is clearly intended.

46 8. "Earning capacity", except as herein provided, means:

47 a. The ability of a volunteer peace officer to perform on a five day
48 or six day basis either the work usually and ordinarily performed by him
49 in his remunerated employment or other work which for any such worker
50 would be a reasonable substitute for the remunerated employment in which
51 he was employed at the time of his injury, or

52 b. The ability of a volunteer peace officer to perform on a five day
53 or six day basis either the work usually and ordinarily performed by him
54 in the practice of his profession or in the conduct of his trade or
55 business, including farming, and from which he could derive earned
56 income or other work which for any such person would be a reasonable



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S. 3701

3

1 substitute for the profession, trade or business in which he was engaged
2 at the time of his injury.

3 Every volunteer peace officer shall be considered to have earning
4 capacity and, if the provisions of paragraphs a and b of this subdivi-
5 sion are not applicable in any given case, the workers' compensation
6 board, in the interest of justice, shall determine the reasonable earn-
7 ing capacity of the volunteer peace officer with due regard to the
8 provisions of such paragraphs and the work he reasonably could be
9 expected to obtain and for which he is qualified by age, education,
10 training and experience. The ability of a volunteer peace officer to
11 perform the duties of a volunteer peace officer, or to engage in activ-
12 ities incidental thereto, may be considered in determining loss of earn-
13 ing capacity, but the inability of a volunteer peace officer to perform
14 such duties or to engage in such activities shall not be a basis of
15 determining loss of earning capacity.

16 9. "State" means all territory within the boundaries of the state of
17 New York, including territory which has been or may hereafter be ceded
18 to the federal government or to the United Nations and territory within
19 the boundaries of Indian reservations.

20 10. "Political subdivision" means a county, city, town, village or
21 fire or law enforcement agency.

22 11. "State fund" means the state insurance fund provided for in arti-
23 cle six of the workers' compensation law.

24 12. "County plan of self-insurance" means a county plan of self-insu-
25 rance under article five of the workers' compensation law.

26 13. "Insurance carrier" means the state fund, the stock corporations,
27 mutual corporations, group self-insurers or reciprocal insurers
28 described in subdivision nine of section thirty of this chapter, a coun-
29 ty plan of self-insurance, or a self-insuring political subdivision.
30 For purposes of this chapter, a nonprofit property/casualty insurance
31 company which is licensed pursuant to subsection (b) of section six
32 thousand seven hundred four of the insurance law shall be deemed a stock
33 corporation and a nonprofit property/casualty insurance company which is
34 licensed as a reciprocal insurer pursuant to subsection (c) of section
35 six thousand seven hundred four of the insurance law shall be deemed a
36 reciprocal insurer.

37 14. "Fund raising activity" means a fund raising activity described in
38 subdivision one of section two hundred four-a of the general municipal
39 law, except that for the purposes of paragraph k of subdivision one of
40 section five of this chapter it shall not include competitive events in
41 which volunteer peace officers are competitors, such as baseball,
42 basketball, football, bowling, tugs of war, donkey baseball, donkey
43 basketball, boxing, wrestling, contests between bands or drum corps, or
44 other competitive events in which volunteer peace officers are compet-
45 itors and which involve physical exertion on the part of the compet-
46 itors. Such term "fund raising activity" shall not include drills,
47 parades, inspections, reviews, competitive tournaments, contests or
48 public exhibitions, described in paragraphs e and h of subdivision one
49 of section five of this chapter, even though prizes are awarded at such
50 events.

ARTICLE II

COVERAGE AND BENEFITS

53 Section 5. Coverage.

54 6. Volunteer peace officers' benefits; general.

55 7. Death benefits.

56 7-a. Date of death benefits.



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4

- 1 8. Permanent total disability benefits.
- 2 9. Temporary total disability benefits.
- 3 10. Permanent partial disability benefits.
- 4 11. Temporary partial disability benefits.
- 5 11-a. Repair or replacement of prosthetic devices.
- 6 11-b. Hazardous exposures.
- 7 12. Nonschedule adjustments.
- 8 13. Reclassification of disabilities.
- 9 14. Previous disability.
- 10 15. Expense for rehabilitating injured volunteer peace offi-
- 11 cers.
- 12 16. Treatment and care.
- 13 17. Aliens.
- 14 18. Disposition of accrued benefits upon death.
- 15 19. Exclusiveness of remedy.
- 16 20. Other remedies of volunteer peace officers; subrogation.
- 17 21. Assistance to other states, the Dominion of Canada, prop-
- 18 erty ceded to the federal government and to Indian
- 19 reservations.
- 20 22. Revenues and benefits from sources other than this chap-
- 21 ter.
- 22 23. Assignments, exemptions.
- 23 24. Waiver agreements void.
- 24 25. Limitation of time.
- 25 § 5. Coverage. 1. The duties and activities in relation to which bene-
- 26 fits shall be paid and provided pursuant to this chapter are:
- 27 a. Necessary travel to, working at, and necessary travel returning
- 28 from an accident, alarm of accident, or other duty to which his law
- 29 enforcement agency, or any unit thereof, either has responded or would
- 30 be required or authorized to respond, including necessary travel during
- 31 such work or incidental thereto.
- 32 b. While, within the state, personally assisting another law enforce-
- 33 ment agency or any unit thereof, including, after his services have been
- 34 duly accepted, necessary travel to and returning from such work and
- 35 necessary travel during such work or incidental thereto.
- 36 c. While, within the state and pursuant to orders or authorization,
- 37 performing duties at the law enforcement facility, or elsewhere, direct-
- 38 ly related to: (1) the prevention of accidents or other disasters, or
- 39 (2) the delivery of emergency health care.
- 40 d. While, within this country or in Canada and pursuant to orders or
- 41 authorization, instructing or being instructed in lawful duties, attend-
- 42 ing a training school or course of instruction for volunteer peace offi-
- 43 cers, or attending or participating in any noncompetitive training
- 44 program, including necessary travel directly connected therewith.
- 45 e. While, within the state, any adjoining state or in Canada and
- 46 pursuant to orders or authorization, attending or participating in any
- 47 drill, parade, funeral, inspection or review in which his law enforce-
- 48 ment agency, or any unit thereof, is engaged, including necessary travel
- 49 directly connected therewith.
- 50 f. While, within the state and pursuant to orders or authorization,
- 51 attending or working at meetings of his law enforcement agency, or any
- 52 organized unit thereof, at the law enforcement agency or other regular
- 53 or special headquarters of the department, company or unit, including
- 54 necessary travel directly connected therewith other than travel to or
- 55 returning from such meetings.



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1 g. While, within the state and pursuant to orders or authorization,
2 working in connection with the construction, testing, inspection, repair
3 or maintenance of (1) the law enforcement agency facility and the
4 fixtures, furnishings and equipment thereof, and (2) the law enforcement
5 agency vehicles, apparatus and equipment used by the law enforcement
6 agency, or other unit thereof, including necessary travel directly
7 connected therewith other than travel to or returning from such work.

8 h. While, within the state, any adjoining state or in Canada and
9 pursuant to orders or authorization, practicing for, or participating as
10 a contestant or an official in, any competitive tournament, contest or
11 public exhibition conducted for peace officers which is intended to
12 promote the efficiency of the law enforcement agency or any unit there-
13 of, including necessary travel directly connected therewith other than
14 travel to and returning from such practice. The actual rendition of the
15 law enforcement agency or other emergency service shall not be deemed
16 "practicing" within the meaning of this paragraph.

17 i. While, pursuant to orders or authorization, engaged in the
18 inspection of vehicles and apparatus prior to delivery under a contract
19 of purchase, or performing duties in relation to the delivery thereof,
20 including necessary travel directly connected therewith.

21 j. While, within this country or Canada and pursuant to orders or
22 authorization, attending a convention or conference of volunteer peace
23 officers as the authorized delegate or representative of his department,
24 or any unit thereof, including necessary travel directly connected ther-
25 ewith.

26 k. While, within the state and pursuant to orders or authorization,
27 working in connection with a fund raising activity of his department,
28 including necessary travel directly connected therewith, but shall not
29 include competitive events in which volunteer peace officers are compet-
30 itors, such as baseball, basketball, football, bowling, tugs of war,
31 donkey baseball, donkey basketball, boxing, wrestling, contests between
32 bands or drum corps, or other competitive events in which volunteer
33 peace officers are competitors and which involve physical exertion on
34 the part of the competitors.

35 2. Benefits shall not be paid and provided pursuant to this chapter in
36 the following instances:

37 a. Work or service rendered by a volunteer peace officer while on a
38 leave of absence pursuant to the general municipal law or pursuant to
39 any other general, special or local law, charter or ordinance or pursu-
40 ant to the constitution, by-laws, rules or regulations applicable to the
41 department of which he is a member.

42 b. Practice for and participation in any recreational, social, or fund
43 raising activity other than a fund raising activity for which coverage
44 is provided under paragraph k of subdivision one of this section.

45 c. Work or service rendered by a volunteer peace officer while
46 suspended from duty pursuant to any general, special or local law, char-
47 ter or ordinance or pursuant to the constitution, by-laws, rules or
48 regulations applicable to the department of which he is a member.

49 d. Work or service not rendered as a volunteer peace officer, but
50 rendered as an officer, official or employee of a public corporation or
51 any special district thereof, whether with or without remuneration, even
52 though by law a requirement for such office, position or employment
53 shall be that such officer, official or employee shall have been or must
54 be a volunteer peace officer.

55 e. Work or service not rendered as a volunteer peace officer, but
56 rendered in the course of his employment for a private employer.



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1 f. Work, service or activities in which the volunteer peace officer
2 has been ordered not to participate. This subdivision shall not be
3 deemed to enumerate all of the activities engaged in by volunteer peace
4 officers for which mandatory coverage is not provided by this chapter,
5 or to prohibit any of the activities described in this subdivision, or
6 to prevent the securing of insurance pursuant to section four thousand
7 two hundred thirty-seven of the insurance law to cover volunteer peace
8 officers when engaged in activities other than those for which mandatory
9 coverage is provided by this chapter.

10 § 6. Volunteer peace officers' benefits; general. If a volunteer peace
11 officer dies from the effects of injury in the line of duty, or if such
12 a peace officer shall be injured in the line of duty, benefits shall be
13 paid and provided pursuant to this chapter, except that there shall be
14 no liability for such benefits when the injury has been solely occa-
15 sioned by intoxication of the volunteer peace officer while acting in
16 line of duty or by the wilful intention of the volunteer peace officer
17 to bring about the injury or death of himself or another.

18 § 7. Death benefits. In the event of death the benefit shall be known
19 as a death benefit and shall be paid as follows:

20 1. The reasonable funeral expenses of the deceased volunteer peace
21 officer shall be paid in an amount not exceeding three thousand dollars.

22 If such funeral expenses shall have been paid by a person entitled to
23 benefits under this section or by others, the funeral expenses awarded
24 shall be made payable to such beneficiary or others; otherwise they
25 shall be payable to the undertaker who provided the burial. Funeral
26 expenses shall be awarded in all death cases.

27 2. If there be a surviving spouse, to such spouse the lump sum of five
28 thousand dollars, but if there be no surviving spouse, then to the exec-
29 uter or administrator of the estate of the volunteer peace officer, the
30 lump sum of five thousand dollars. Such sum shall be in addition to any
31 other benefits provided in this chapter and shall not be diminished by
32 benefits paid to the volunteer peace officer during his lifetime. Any
33 money paid to an executor or administrator pursuant to the provisions of
34 this subdivision shall be distributed in the manner provided by the laws
35 of this state for the distribution of the personal property of an intes-
36 tate decedent.

37 3. In the case of a death of a volunteer peace officer, on or after
38 the effective date of this chapter, if there be a surviving spouse and
39 no surviving child of the deceased under the age of eighteen years or
40 under the age of twenty-five years who is enrolled as a full time
41 student in any accredited educational institution and no surviving child
42 of any age dependent blind or physically disabled, to such spouse three
43 hundred dollars for each week until remarried, and upon such remarriage
44 the lump sum of thirty-one thousand two hundred dollars.

45 4. If any person under the age of eighteen years is an inmate of any
46 institution and a public charge upon the state or any political subdivi-
47 sion, the benefits allowed hereunder shall be payable to the state or
48 political subdivision to the extent of the reasonable charges for care
49 and maintenance, during the continuance as a public charge in such
50 institution of such beneficiary and until he or she shall have attained
51 the age of eighteen years. Any sum or sums remaining after such payments
52 shall be distributed as provided in this section.

53 5. The term "dependent blind or physically disabled", as used in this
54 section in relation to dependent children, means totally blind or phys-
55 ically disabled dependent children whose disablement is total and perma-
56 nent.



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1 6. All questions of dependency shall be determined as of the time of
2 the injury.

3 7. The workers' compensation board may in its discretion require the
4 appointment of a guardian for the purpose of receiving benefits payable
5 to a minor child or a dependent blind or physically disabled child. In
6 the absence of such a requirement by such board the appointment of a
7 guardian for such purposes shall not be necessary.

8 8. In the case of a death of a volunteer peace officer, on or after
9 the effective date of this chapter, that results from services performed
10 in the line of duty, if there be a surviving spouse and a surviving
11 child or children of the deceased under the age of eighteen years or
12 under the age of twenty-five years who is enrolled as a full time
13 student in any accredited educational institution or a surviving child
14 or children of any age dependent blind or physically disabled, to such
15 spouse one hundred sixty-five dollars for each week until remarried, and
16 the additional amount of one hundred thirty-five dollars for each week
17 for such child or children, share and share alike, until the age of
18 eighteen years or under the age of twenty-five years who is enrolled as
19 a full time student in any accredited educational institution or until
20 the removal of the dependency of the blind or physically disabled child
21 or children.

22 In the case of the death of such surviving spouse, the surviving child
23 or children of the deceased peace officer, at the time under eighteen
24 years of age or under the age of twenty-five years who is enrolled as a
25 full time student in any accredited educational institution or dependent
26 through mental or physical infirmity, shall have his or her or their
27 benefit increased to three hundred dollars for each week, share and
28 share alike, and the same shall be payable until he or she or they shall
29 reach the age of eighteen years or twenty-five years, as the case may
30 be, or until such dependent blind or physically disabled condition shall
31 have been removed. Upon the remarriage of such surviving spouse prior to
32 the statutory termination of benefits to all such children, such spouse
33 shall be paid the lump sum of seventeen thousand one hundred sixty
34 dollars; and the surviving child shall continue to receive weekly
35 payments of one hundred thirty-five dollars; if there be two surviving
36 children, each shall receive one hundred twelve dollars and fifty cents
37 per week; and if there be more than two surviving children, they shall
38 receive three hundred dollars per week, share and share alike; and the
39 same shall be payable until he or she or they shall reach the age of
40 eighteen years or twenty-five years, as the case may be, or until such
41 dependent blind or physically disabled condition shall have been
42 removed. Upon statutory termination of payments to all such children,
43 the payments to the surviving spouse shall be increased to three hundred
44 dollars for each week until such spouse remarries, and upon such remar-
45 riage, such spouse shall be paid the lump sum of thirty-one thousand two
46 hundred dollars. In no event shall the total amount payable for each
47 week under this subdivision exceed three hundred dollars.

48 9. In the case of a death of a volunteer peace officer, on or after
49 the effective date of this chapter, that results from services performed
50 in the line of duty, if there be surviving a child or children of the
51 deceased under the age of eighteen years or under the age of twenty-five
52 years who is enrolled as a full time student in any accredited educa-
53 tional institution or a dependent blind or physically disabled child or
54 children of any age, but no surviving spouse, for the support of such
55 child or children until the age of eighteen years or twenty-five years
56 as the case may be, or until the removal of the dependency of such blind



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8

1 or physically disabled child or children, three hundred dollars, share
2 and share alike, for each week; provided that the total amount payable
3 for each week under this subdivision shall not exceed three hundred
4 dollars per week.

5 10. In the case of a death of a volunteer peace officer, on or after
6 the effective date of this chapter, that results from services performed
7 in the line of duty, if there be no surviving spouse or child of the
8 deceased under the age of eighteen years or under the age of twenty-five
9 years who is enrolled as a full time student in any accredited educa-
10 tional institution or dependent blind or physically disabled child of
11 the deceased of any age, then for the support of grandchildren or broth-
12 ers and sisters under the age of eighteen years or under the age of
13 twenty-five years who is enrolled as a full time student in any accred-
14 ited educational institution if dependent upon the deceased at the time
15 of the injury, one hundred twelve dollars and fifty cents for each week
16 for the support of each such person until the age of eighteen years or
17 twenty-five years as the case may be, and for the support of each parent
18 or grandparent of the deceased, if dependent upon the deceased at the
19 time of the injury, one hundred eighty dollars for each week during such
20 dependency, but in no case shall the aggregate amount payable under this
21 subdivision exceed three hundred dollars per week.

22 § 7-a. Date of death benefits. All weekly benefits payable under
23 section seven of this article shall accrue as of the date of death of
24 the volunteer peace officer. In the event that a person or persons enti-
25 tled to weekly benefits shall die before a determination is made on the
26 merits of their claim, and such determination on the merits is ultimate-
27 ly in their favor, then all weekly benefits due from the date of death
28 of the volunteer peace officer up to the date of death of the person or
29 persons entitled to such weekly benefits shall be paid to the executor
30 or administrator of the estate of such person or persons.

31 § 8. Permanent total disability benefits. In the case of total disa-
32 bility adjudged to be permanent the volunteer peace officer shall be
33 paid four hundred dollars for each week during the continuance thereof.
34 Permanent total disability, within the meaning of this section, shall
35 exist only if the earning capacity of the volunteer peace officer has
36 been lost permanently and totally as the result of the injury. The loss
37 of both hands, or both arms, or both feet, or both legs, or both eyes,
38 or any two thereof, shall, in the absence of conclusive proof to the
39 contrary, constitute permanent total disability, but in all other cases
40 permanent total disability shall be determined in accordance with the
41 facts. Notwithstanding any other provisions of this chapter, an injured
42 volunteer peace officer disabled due to the loss or total loss of use of
43 both eyes, or both hands, or both arms, or both feet, or both legs, or
44 any two thereof shall not suffer any diminution of such weekly benefit
45 by engaging in business or employment provided his or her weekly earn-
46 ings or wages, when combined with his weekly benefit shall not be in
47 excess of six hundred dollars; and further provided that the application
48 of this section shall not result in reduction of benefits which an
49 injured volunteer peace officer who is disabled due to the loss or total
50 loss of use of both eyes, or both hands, or both arms, or both feet, or
51 both legs, or any two thereof would otherwise be entitled to under any
52 other provisions of this article.

53 § 9. Temporary total disability benefits. In the case of temporary
54 total disability the volunteer peace officer shall be paid three hundred
55 dollars for each week during the continuance thereof.



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1 § 10. Permanent partial disability benefits. 1. In the case of disa-
2 bility partial in character, but permanent in quality, the volunteer
3 peace officer, injured in the line of duty shall be paid one hundred
4 fifty dollars for each week for the period specified in this subdivision
5 as follows:

6 a. Loss of member.	7 Member lost	8 Number of weeks
9	Arm	312
10	Leg	288
11	Hand	244
12	Foot	205
13	Eye	160
14	Thumb	75
15	First finger	46
16	Great toe	38
17	Second finger	30
18	Third finger	25
19	Toe other than great toe	16
20	Fourth finger	15

21 If more than one phalange of a digit shall be lost, the period shall
22 be the same as for the loss of the entire digit. If only the first
23 phalange shall be lost, the period shall be one-half the period for loss
24 of the entire digit. The period for loss or loss of use of two or more
25 digits, or one or more phalanges of two or more digits, of a hand or
26 foot, may be proportioned to the period for the loss of use of the hand
27 or foot occasioned thereby, but shall not exceed the period for the loss
28 of a hand or foot. If an arm or leg shall be amputated at or above the
29 wrist or ankle, the period for such loss shall be in proportion to the
30 period for the loss of the arm or leg. In the case of loss of binocular
31 vision or of eighty per centum or more of the vision of an eye, the
32 period shall be the same as for the loss of the eye.

33 b. Loss of hearing. In the case of the complete loss of the hearing of
34 one ear, sixty weeks; for the loss of hearing of both ears, one hundred
35 fifty weeks.

36 c. Total loss of use. In the case of permanent total loss of use of a
37 member, the compensation shall be the same as for the loss of the
38 member.

39 d. Partial loss or partial loss of use. Except as above provided in
40 this subdivision, in the case of permanent partial loss or loss of use
41 of a member, the period shall be for the proportionate loss or loss of
42 use of the member. Compensation for permanent partial loss of use of an
43 eye shall be awarded on the basis of uncorrected loss of vision or
44 corrected loss of vision resulting from an injury which ever is greater.

45 e. Disfigurement. In the case of serious facial or head disfigurement,
46 including a disfigurement continuous in length which is partly in the
47 facial area and also extends into the neck region as described in this
48 paragraph, the volunteer peace officer shall be paid in a lump sum a
49 proper and equitable amount, which shall be determined by the workers'
50 compensation board. If the earning capacity of the volunteer peace offi-
51 cer shall have been impaired, or may in the future be impaired, by any
52 serious disfigurement in the region above the sterno clavicular artic-
53 ulations anterior to and including the region of the sterno cleido
54 mastoid muscles on either side, the volunteer peace officer shall be
55 paid in a lump sum a proper and equitable amount which shall be deter-
56 mined by such board. Two or more serious disfigurements, not continuous
57 in length, resulting from the same injury, if partially in the facial



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1 area and partially in such neck region, shall be deemed to be a facial
2 disfigurement. An award, or the aggregate of the awards, to a volunteer
3 peace officer under this paragraph shall not exceed twenty thousand
4 dollars.

5 f. Total or partial loss or loss of use of more than one member. In
6 any case in which there shall be a loss or loss of use of more than one
7 member or parts of more than one member set forth above in paragraphs a
8 through e, both inclusive, of this subdivision, but not amounting to
9 permanent total disability, the periods for loss or loss of use of each
10 such member or part thereof shall run consecutively.

11 g. Other cases. In all other cases of permanent partial disability the
12 volunteer peace officer shall be paid for each week, during the contin-
13 uance thereof, as follows:

14 (1) If the percentage of loss of earning capacity is seventy-five per
15 centum, or greater, he or she shall be paid one hundred fifty dollars
16 for each week.

17 (2) If the percentage of loss of earning capacity is fifty per centum,
18 or greater, but less than seventy-five per centum, he or she shall be
19 paid one hundred dollars for each week.

20 (3) If the percentage of loss of earning capacity is twenty-five per
21 centum, or greater, but less than fifty per centum, he or she shall be
22 paid thirty dollars for each week.

23 (4) If the percentage of loss of earning capacity is less than twen-
24 ty-five per centum, he or she shall not be paid any weekly benefit.

25 Permanent partial disability, within the meaning of this paragraph,
26 shall exist only if the earning capacity of the volunteer peace officer
27 has been permanently and partially lost as the result of the injury. The
28 workers' compensation board shall determine the degree of such disabili-
29 ty and such board may reconsider such degree on its own motion or upon
30 application of any party in interest.

31 2. An award made to a claimant under this section shall in case of
32 death arising from causes other than the injury be payable to and for
33 the benefit of the persons following:

34 a. If there be a surviving spouse and no child of the deceased under
35 the age of eighteen years, to such spouse.

36 b. If there be a surviving spouse and surviving child or children of
37 the deceased under the age of eighteen years, one-half shall be payable
38 to the surviving spouse and the other half to the surviving child or
39 children.

40 c. If there be a surviving child or children of the deceased under the
41 age of eighteen years, but no surviving spouse, then to such child or
42 children.

43 d. If there be no surviving spouse and no surviving child or children
44 of the deceased under the age of eighteen years, then to such dependent
45 or dependents as defined in section seven of this article, as directed
46 by the workers' compensation board; and if there shall be no such depen-
47 dents, then to the estate of such deceased in an amount not exceeding
48 reasonable funeral expenses as provided in subdivision one of section
49 seven of this article, or, if there be no estate, to the person or
50 persons paying the funeral expenses of such deceased in an amount not
51 exceeding reasonable funeral expenses as provided in such subdivision
52 one.

53 § 11. Temporary partial disability benefits. In the case of temporary
54 partial disability the volunteer peace officer shall be paid for each
55 week during the continuance thereof, as follows:



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1 1. If the percentage of loss of earning capacity is seventy-five per
2 centum, or greater, he or she shall be paid one hundred fifty dollars
3 for each week.

4 2. If the percentage of loss of earning capacity is fifty per centum,
5 or greater, but less than seventy-five per centum, he or she shall be
6 paid one hundred dollars for each week.

7 3. If the percentage of loss of earning capacity is twenty-five per
8 centum, or greater, but less than fifty per centum, he or she shall be
9 paid thirty dollars for each week.

10 4. If the percentage of loss of earning capacity is less than twenty-
11 five per centum, he or she shall not be paid any weekly benefit.

12 Temporary partial disability, within the meaning of this section,
13 shall exist only if the earning capacity of the volunteer peace officer
14 has been temporarily and partially lost as the result of the injury. The
15 workers' compensation board shall determine the degree of such disabili-
16 ty and such board may reconsider such degree on its own motion or upon
17 application of any party in interest.

18 § 11-a. Repair or replacement of prosthetic devices. If, as a result
19 of services performed in line of duty, a volunteer peace officer damages
20 or loses any prosthetic devices required to be worn or used by him,
21 whether or not he is injured, such prosthetic device shall be repaired,
22 or replaced in the discretion of the workers' compensation board, and
23 necessary medical, surgical or other attendance or treatment, nurse and
24 hospital service, in connection therewith shall be furnished, in the
25 same manner as a prosthetic device would be furnished, replaced or
26 repaired and treatment and care provided under the provisions of section
27 sixteen of this article. Damage to or loss of a prosthetic device shall
28 be deemed an injury, except that no disability benefits shall be payable
29 with respect to such injury under sections eight, nine, ten and eleven
30 of this article. The term "prosthetic device" as used in this section
31 includes an artificial limb, artificial eye, eyeglasses, contact lens,
32 hearing aid, denture or dental appliance or any surgical appliance
33 required to be worn or used by the volunteer peace officer, but shall
34 not include shoes or any other article considered as ordinary wearing
35 apparel, whether or not specially constructed.

36 § 11-b. Hazardous exposures. If, as a result of services performed in
37 line of duty, a volunteer peace officer is exposed to or comes in
38 contact with any poisons, gases, x-rays, radium, radioactive materials
39 or other potentially harmful substances or matter, the captain or other
40 executive officer of the department, or law enforcement agency of which
41 he is a member may authorize the volunteer peace officer to obtain such
42 examinations, tests, treatment and care as are immediately necessary to
43 determine whether he is injured. Any such authorization may be granted
44 prior to the giving of a notice of injury under this chapter. In any
45 such case, the volunteer peace officer shall be deemed to have been
46 injured and shall be entitled to treatment and care and disability bene-
47 fits as provided in this chapter.

48 § 12. Nonschedule adjustments. Notwithstanding any other provision of
49 this chapter, in any case coming within the provisions of sections ten
50 and eleven of this article, in which the right to benefits has been
51 established and benefits have been paid for not less than three months,
52 in which the continuance of disability cannot be ascertained with
53 reasonable certainty, the workers' compensation board may, in the inter-
54 est of justice, approve a nonschedule adjustment agreed to between the
55 claimant and the political subdivision liable for the payment of bene-
56 fits or its insurance carrier. The provisions of subdivision five-b of



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S. 3701

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1 section fifteen of the workers' compensation law shall apply in any such
2 case.

3 § 13. Reclassification of disabilities. Subject to the limitations in
4 section fifty-one of this chapter and in section one hundred twenty-
5 three of the workers' compensation law as made applicable to this chap-
6 ter by section fifty-seven of this chapter, the workers' compensation
7 board may at any time, without regard to the date of the injury, upon
8 its own motion, or on application of any party in interest, reclassify a
9 disability upon proof that there has been a change in condition, or that
10 the previous classification was erroneous and not in the interest of
11 justice.

12 § 14. Previous disability. The fact that a volunteer peace officer has
13 suffered previous disability or received benefits therefor as provided
14 in the workers' compensation law, or this chapter shall not preclude him
15 from benefits for a later injury nor preclude death benefits for death
16 resulting therefrom; provided, however, that a volunteer peace officer
17 who is suffering from a previous disability shall not receive benefits
18 for a later injury in excess of the benefits allowed for such injury
19 when considered by itself and not in conjunction with the previous disa-
20 bility. Notwithstanding the foregoing provisions of this section, if a
21 volunteer peace officer has previously incurred permanent partial disa-
22 bility through the loss or loss of use of one hand, one arm, one foot,
23 one leg, or one eye, and suffers the loss or loss of use of another such
24 major member or eye, he may be adjudged permanently totally disabled and
25 receive benefits for permanent total disability as provided in section
26 eight of this article.

27 § 15. Expense for rehabilitating injured volunteer peace officers. A
28 volunteer peace officer, who as a result of injury is or may be expected
29 to be totally or partially incapacitated for a remunerative occupation
30 and who, under the direction of the state education department is being
31 rendered fit to engage in a remunerative occupation, may receive such
32 additional financial benefit necessary for his rehabilitation as the
33 workers' compensation board shall determine. Not more than thirty
34 dollars per week of such additional amount shall be expended for mainte-
35 nance. Such expense and such of the administrative expenses of the state
36 education department as are properly assignable to the expenses of reha-
37 bilitating such volunteer peace officers shall be paid out of the voca-
38 tional rehabilitation fund created pursuant to subdivision nine of
39 section fifteen of the workers' compensation law. Any such volunteer
40 peace officer for the purposes of such fund shall be considered an
41 employee of the political subdivision or law enforcement agency liable
42 for the payment of benefits to such volunteer peace officer under this
43 chapter and such "employer" or its insurance carrier, as the case may
44 be, shall make the same financial contribution to such fund as required
45 by subdivision nine of section fifteen of the workers' compensation law
46 in every case of injury causing death of a volunteer peace officer in
47 which there are no persons entitled to financial benefits under this
48 chapter other than (1) funeral expenses and (2) the death benefit
49 provided in subdivision two of section seven of this article.

50 § 16. Treatment and care. A volunteer peace officer injured in line of
51 duty shall be entitled to receive medical, surgical, podiatric, chirop-
52 ractic, psychological and other attendance and treatment, nurse and
53 hospital service, medicine, crutches, artificial members, devices,
54 appliances, and apparatus, including the replacement and repair thereof,
55 for such period as the nature of the injury or the process of recovery
56 may require and the political subdivision or law enforcement agency



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1 liable for the payment of benefits to the volunteer peace officer under
2 this chapter because of such injury shall be liable therefor and the
3 cost thereof shall be audited, raised and paid as provided in section
4 thirty of this chapter. The provisions of sections thirteen through
5 thirteen-m, inclusive, and sections nineteen through nineteen-b, inclu-
6 sive, of the workers' compensation law, to the extent that such
7 provisions are not inconsistent with this chapter, shall be applicable
8 in relation to any injured volunteer peace officer, political subdivi-
9 sion and third persons as fully as if set forth in this chapter.

10 § 17. Aliens. Financial benefits payable under this chapter to aliens
11 not residents or about to become nonresidents of the United States or
12 Canada shall be in the same amount as provided for residents, except
13 that dependents in any foreign country shall be limited to surviving
14 spouse and child or children, or, if there be no surviving spouse or
15 child or children, to the surviving father or mother whom the volunteer
16 peace officer has supported, either wholly or in part, for a period of
17 one year prior to the date of the injury.

18 § 18. Disposition of accrued benefits upon death. Except as otherwise
19 provided in section ten of this article, in the case of the death of an
20 injured volunteer peace officer to whom there was due at the time of his
21 death any benefits under the provisions of this chapter, the amount of
22 such benefits shall be payable to the surviving spouse, if there be one,
23 or, if none, to the surviving child or children of the deceased under
24 the age of eighteen years, and if there be no surviving spouse or chil-
25 dren, then to the dependents of such deceased or to any of them as the
26 workers' compensation board may direct, and if there be no surviving
27 spouse, children or dependents of such deceased, then to his estate. An
28 award for disability may be made after the death of an injured volunteer
29 peace officer.

30 § 19. Exclusiveness of remedy. The benefits provided by this chapter
31 shall be the exclusive remedy of a volunteer peace officer, or his
32 spouse, parents, dependents, next of kin, executor or administrator, or
33 anyone otherwise entitled to recover damages, at common law or other-
34 wise, for or on account of an injury to a volunteer peace officer in
35 line of duty or death resulting from an injury to a volunteer peace
36 officer in line of duty, as against (1) the political subdivision or law
37 enforcement agency liable for the payment of such benefits, (2) the
38 political subdivision regularly served by the law enforcement agency of
39 which the volunteer peace officer is a member, whether or not pursuant
40 to a contract for law enforcement services, even though any such poli-
41 tical subdivision is not liable for the payment of such benefits in the
42 circumstances, and (3) any person or company acting under governmental
43 or statutory authority in furtherance of the duties or activities in
44 relation to which any such injury resulted; provided, however, that the
45 benefits provided by this chapter shall not be the exclusive remedy as
46 against persons who, in the furtherance of the same duties or activ-
47 ities, are not similarly barred from recourse against the volunteer
48 peace officer, or his executor or administrator.

49 § 20. Other remedies of volunteer peace officers; subrogation. The
50 provisions of section twenty-nine of the workers' compensation law to
51 the extent that such provisions are not inconsistent with the provisions
52 of this chapter, shall be applicable as fully as if set forth in this
53 chapter.

54 § 21. Assistance to other states, the Dominion of Canada, property
55 ceded to the federal government and to Indian reservations. 1. Whenever
56 a department in this state shall answer a call to furnish assistance to



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1 any political subdivision or territory of another state of the United
2 States or of the Dominion of Canada, or property ceded to the federal
3 government, the provisions of this chapter shall apply with respect to
4 the volunteer peace officers of such department, while such assistance
5 is being rendered or while going to or returning from the place from
6 where the assistance is to be or was rendered, to the same extent and in
7 the same manner as if such service had been rendered in or for the area
8 regularly served by such volunteer peace officer; provided, however,
9 that there shall be deducted from any amounts payable under this chapter
10 any amounts recoverable by or payable to any such volunteer peace offi-
11 cer under the laws applicable in the political subdivision or territory
12 for which the call for assistance was made.

13 2. The provisions of this chapter shall apply with respect to volun-
14 teer peace officers of departments of other states of the United States
15 and of the Dominion of Canada who render service in this state in answer
16 to a call for assistance to the territory regularly served by a law
17 enforcement agency described in subdivisions one through five, inclu-
18 sive, of section thirty of this chapter and, for the purposes of deter-
19 mining liability for benefits under this chapter, any such volunteer
20 peace officer shall be considered as a volunteer member of the depart-
21 ment of the territory for which service has been rendered in this state
22 pursuant to a call for assistance; provided that the laws of the state
23 served by such volunteer peace officers, departments or law enforcement
24 agency, or of the Dominion of Canada, as the case may be, contain
25 provisions under which benefits are granted in relation to volunteer
26 peace officers of this state who are killed or injured when rendering
27 service in such other states, or the Dominion of Canada, as the case may
28 be, in answer to a call for assistance; provided, however, that there
29 shall be deducted from any amounts payable under the provisions of this
30 chapter to a volunteer peace officer of such other states or of the
31 Dominion of Canada, any amounts recoverable by or payable to such volun-
32 teer peace officer under the laws of the state served by such volunteer
33 peace officer or of the Dominion of Canada, as the case may be.

34 3. Whenever a law enforcement agency in this state shall answer a call
35 for assistance to be rendered to any part of an Indian reservation the
36 provisions of this chapter shall apply with respect to the volunteer
37 peace officers of such law enforcement agency or department, while such
38 assistance is being rendered or while going to or returning from the
39 place from where the assistance is to be or was rendered, to the same
40 extent and in the same manner as if such service had been rendered in or
41 for the area regularly served by such volunteer peace officers.

42 § 22. Revenues and benefits from sources other than this chapter. 1.
43 Benefits, savings or insurance of the injured or deceased volunteer
44 peace officer, or insurance carried for his benefit under subsection (a)
45 of section four thousand two hundred thirty-seven of the insurance law,
46 shall not be considered in determining the benefits to be paid and
47 provided under this chapter, nor shall such benefits be diminished or
48 reduced by reason of the payment to an injured volunteer peace officer
49 of salary, wages or other remuneration by any political subdivision
50 liable for the payment of such benefits.

51 2. Benefits received from any political subdivision pursuant to
52 service award payments authorized by article eleven-AA of the general
53 municipal law shall not be considered in determining the benefits to be
54 paid and provided under this chapter.

55 § 23. Assignments, exemptions. Benefits payable under this article
56 shall not be assigned, released or commuted, except as provided by this



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S. 3701

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1 chapter, and shall be exempt from all claims of creditors and from levy,
2 execution and attachment or other remedy for recovery or collection of a
3 debt, which exemption may not be waived. Such benefits shall be paid
4 only to volunteer peace officers or their dependents except as otherwise
5 provided in this chapter.

6 § 24. Waiver agreements void. No agreement by a volunteer peace offi-
7 cer to waive his or her right to benefits under this chapter shall be
8 valid.

9 § 25. Limitation of time. No limitation of time provided in this chap-
10 ter shall run as against any person who is mentally incompetent or a
11 minor so long as he has no committee or guardian.

ARTICLE III

LIABILITY FOR BENEFITS; INSURANCE

12 Section 30. Liability for and payment of benefits.

13 31. The insurance contract.

14 32. Group insurance.

15 § 30. Liability for and payment of benefits. Except as otherwise
16 provided in article five of the workers' compensation law and in section
17 twenty-one of this chapter:

18 1. If at the time of injury the volunteer peace officer was a member
19 of a law enforcement agency of a county, city, town, village or law
20 enforcement agency, any benefit under this chapter shall be a county,
21 city, town, village or law enforcement agency charge, as the case may
22 be, and any claim therefor shall be audited in the same manner as other
23 claims against the county, city, town, village or law enforcement agency
24 and the amount thereof shall be raised and paid in the same manner as
25 other county, city, town, village or law enforcement agency charges.

26 2. If at the time of injury the volunteer peace officer was a volun-
27 teer member of a law enforcement agency which uses volunteer peace offi-
28 cers, any benefit under this chapter shall be a city, village or law
29 enforcement agency charge, as the case may be, and any claim therefor
30 shall be audited in the same manner as other claims against the city,
31 village or law enforcement agency and the amount thereof shall be raised
32 and paid in the same manner as other city, village or law enforcement
33 agency charges.

34 3. If at the time of injury the volunteer peace officer was a member
35 of a law enforcement agency and located outside of a city, village or
36 law enforcement agency any benefit under this chapter shall be a town
37 charge and any claim therefor shall be audited and paid in the same
38 manner as town charges and the amount thereof raised upon the property
39 liable to taxation in such outside territory protected by such law
40 enforcement agency in the same manner as town charges therein are
41 raised.

42 4. If at the time of injury the volunteer peace officer was a member
43 of a law enforcement agency operating in, or maintained jointly by two
44 or more villages, or two or more towns, or two or more law enforcement
45 agencies, any benefit under this chapter shall be a charge against such
46 villages, towns or law enforcement agencies, in the proportion that the
47 full valuation of taxable real estate in each bears to the aggregate
48 full valuation of the taxable real estate of all such villages, towns or
49 law enforcement agencies and the amount thereof shall be audited, raised
50 and paid in the same manner as other village, town or law enforcement
51 agency charges. Full valuation shall be determined by dividing the
52 assessed valuations of taxable real estate of each such village, town or
53 law enforcement agency as shown by the latest completed assessment roll
54 of the village, town or law enforcement agency by the equalization rate
55



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1 established by the authorized state agency or officer for such roll;
2 provided, however, in a county having a county department of assessment
3 the full valuation in towns and law enforcement agencies shall be deter-
4 mined by applying the state equalization rate established for the town,
5 or the town in which the law enforcement agency is located, to the
6 appropriate portion of the last completed county roll.

7 5. Any political subdivision may finance the payment of any benefits
8 to be paid and provided under this chapter by the issuance of serial
9 bonds or capital notes pursuant to the local finance law unless it is
10 required by some law, other than this chapter, to pay such benefits from
11 current funds.

12 6. Any political subdivision may contract for insurance indemnifying
13 against the liability imposed by this chapter and the cost of such
14 insurance shall be audited, raised and paid in the same manner as bene-
15 fits are required to be audited, raised and paid in this section.

16 7. Insurance authorized to be purchased pursuant to subdivision seven
17 of this section may be secured from the state fund or any stock corpo-
18 ration, mutual corporation, group self-insurers or reciprocal insurer
19 authorized to transact the business of workers' compensation in this
20 state. If such insurance is not secured, the political subdivision
21 liable shall be deemed to have elected to be a self-insurer unless it is
22 a participant in a county plan of self-insurance or its liability for
23 benefits under this chapter is covered by a town's participation in a
24 county plan of self-insurance as provided in subdivision nine of section
25 sixty-three of the workers' compensation law. Every such self-insurer
26 shall file with the chair of the workers' compensation board a notice of
27 such election prescribed in form by such chair. For failure to file such
28 notice within ten days after such election is made, the treasurer or
29 other fiscal officer of such political subdivision shall be liable to
30 pay to the chair of the workers' compensation board the sum of one
31 hundred dollars as a penalty, to be transferred to the state treasury. A
32 notice of election to be a self-insurer for compensation and benefits to
33 volunteer peace officers under the provisions of the workers' compen-
34 sation law and the general municipal law in effect prior to March first,
35 in the year of the effective date of this chapter, which was filed prior
36 to such date pursuant to the provisions of subdivision four of section
37 fifty of the workers' compensation law as in effect prior to such date
38 shall be deemed to be a notice of election filed under this section
39 unless the chair of the workers' compensation board is notified to the
40 contrary. The provisions of subdivision five of section fifty of the
41 workers' compensation law shall be applicable to such self-insurers.

42 8. The governing board of a political subdivision liable for the
43 payment of such benefits may authorize the treasurer or other fiscal
44 officer thereof to pay the financial benefits provided for in this chap-
45 ter to the person entitled thereto without waiting for an award in any
46 case in the manner provided in section forty-nine of this chapter. The
47 amount payable prior to an award pursuant to such authorization shall
48 constitute a settled claim within the meaning of the local finance law.

49 9. Where a city, village, or town is furnished service by law enforce-
50 ment agency, or any unit thereof pursuant to a contract entered into
51 prior to the enactment date of this chapter with another city, village,
52 law enforcement agency, having its headquarters outside the city,
53 village or law enforcement agency receiving such service and the liabil-
54 ity for benefits under this chapter in relation to volunteer peace offi-
55 cers rendering such service pursuant to such contract on and after the
56 effective date of this chapter is not covered pursuant to a county self-



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1 insurance plan pursuant to section sixty-three of the workers' compen-
2 sation law, the contract may be amended after a public hearing held in
3 the manner provided by law for the amendment of any such contract, or at
4 the option of the contracting parties without a public hearing, to
5 provide for payment by the city, village or law enforcement agency
6 receiving such service to the city, village, law enforcement agency or
7 town in which such law enforcement agency has its headquarters, of a sum
8 in addition to the amount to be paid for such service pursuant to the
9 contract, to provide for any increase in cost, or new or added cost, to
10 such city, village, law enforcement agency or town for insurance cover-
11 age for liability for benefits under this chapter on and after the
12 effective date of this chapter, by reason of the service rendered pursu-
13 ant to such contract. Where such service is received pursuant to a
14 contract entered into prior to the effective date of this chapter with a
15 law enforcement agency having its headquarters outside the city, village
16 or law enforcement agency receiving such service, then whether or not
17 such contract is amended as provided in this section, or a contract
18 entered into on or after the effective date of this chapter so provides,
19 a city, village or law enforcement agency receiving such service on and
20 after the effective date of this chapter pursuant to a contract, shall
21 pay to the city, village, or town in which such law enforcement agency
22 has its headquarters a sum in addition to the amount to be paid for such
23 service pursuant to the contract, to provide for any increase in cost,
24 or new or added cost, to such city, village, law enforcement agency or
25 town for insurance coverage for the liability for benefits under this
26 chapter on and after the effective date of this chapter by reason of the
27 service rendered pursuant to such contract. Any such additional sum so
28 paid shall not be subject to division with a law enforcement agency as
29 otherwise provided by law in the case of contracts for such service.

30 § 31. The insurance contract. 1. The provisions of subdivisions one,
31 two, four, five and seven of section fifty-four of the workers' compen-
32 sation law, in relation to the insurance contract, which are not incon-
33 sistent with this chapter, shall be applicable as fully as if set forth
34 herein. The insurance carrier shall be a party to all hearings and
35 determinations by the workers' compensation board or the courts and
36 shall have the right to raise or plead any defense available to the
37 political subdivision liable in the first instance for the benefits to
38 be paid and provided by this chapter.

39 2. A contract of insurance indemnifying against the liability imposed
40 by this chapter issued by an insurance carrier to a county or a town and
41 in force on or after the effective date of such chapter, shall contain a
42 provision reading as follows: "This contract does not provide (a) any
43 coverage under the workers' compensation law or the volunteer peace
44 officers' benefit law for which any law enforcement agency would be
45 liable under such laws, (b) any workers' compensation benefits for
46 volunteer peace officers and employees for which any law enforcement
47 agency would be liable under the workers' compensation law, or (c) any
48 volunteer peace officers' benefits for any volunteer peace officers for
49 which any law enforcement agency would be liable under the volunteer
50 peace officers' benefit law." The foregoing provision does not apply in
51 relation to volunteer peace officers' benefit coverage and volunteer
52 peace officers' benefits provided for and in relation to the following
53 named law enforcement agencies which have expressly requested coverage
54 under this contract pursuant to the provisions of section thirty-two of
55 this article, to wit: (If there are no exceptions, enter "No
56 exceptions").



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1 3. An insurance contract to indemnify against liability imposed by
2 this chapter originally issued to take effect on or after March first,
3 next succeeding the effective date of this chapter, and any renewal
4 thereof, (a) shall be a separate and distinct contract, (b) shall not be
5 attached as an endorsement or rider to, or in any other way form a part
6 of, a workers' compensation insurance contract, (c) shall not have
7 attached thereto any endorsement or rider covering any liability under
8 the workers' compensation law and (d) shall not be on a contract form
9 used by the insurance carrier for the purpose of insuring employers
10 against liabilities imposed by the workers' compensation law, or is
11 attached to any such form as an endorsement or rider.

12 4. An insurance contract to indemnify against liability imposed by
13 this chapter originally issued to take effect prior to the effective
14 date of such chapter, shall not be renewed to continue in effect on or
15 after March first, in the year of the effective date of this chapter, if
16 (a) it is attached as an endorsement or rider to, or in any other way
17 forms a part of, a workers' compensation insurance contract, (b) it has
18 attached thereto any endorsement or rider covering liability under the
19 workers' compensation law or (c) it is on a contract form used by the
20 insurance carrier for the purpose of insuring employers against liabil-
21 ities imposed by the workers' compensation law, or is attached to any
22 such form as an endorsement or rider.

23 § 32. Group insurance. 1. Notwithstanding any provision of section
24 thirty of this article, any town may contract for a single policy of
25 insurance indemnifying (a) all law enforcement agencies wholly within
26 such town which are liable for the payment of benefits under this chap-
27 ter, (b) all territory within such town outside cities, villages and law
28 enforcement agencies which is liable for the payment of benefits under
29 this chapter, and (c) the town in relation to such law enforcement agen-
30 cies, and outside territory, against liability imposed by this chapter.
31 If a town has any such liability and contracts for such a single policy,
32 then and in that event only any such policy, if requested by the board
33 of trustees of any village wholly within the town, or by the board of
34 commissioners of any law enforcement agency wholly within the town,
35 shall also indemnify such village or law enforcement agency against such
36 liability. The cost of such insurance shall be a town charge and shall
37 be levied and collected in the same manner as other town charges only in
38 the territory of such town which is liable for the payment of benefits
39 under this chapter and which is outside of any village and law enforce-
40 ment agencies not covered by such a policy. Nothing in this section
41 contained shall impose any additional liability on any town for any
42 benefit payments in relation to volunteer peace officers.

43 2. Notwithstanding any other provision of section thirty of this arti-
44 cle, any group of cities, villages, law enforcement agencies or town
45 boards acting for and on behalf of law enforcement agencies or territo-
46 ries outside any such municipal corporations or districts which are
47 liable for the payment of benefits under this chapter, all of which
48 cities, villages, districts and territories are located in whole or in
49 part within one county, may elect by resolution of the governing board
50 of each member of the group to be insured against liability imposed by
51 this chapter, as a group under a single policy. Such resolutions shall
52 be filed with the chairman of the board of supervisors. The group shall
53 file with the chairman of the board of supervisors an agreement, signed
54 by the officer of the governing body designated by such resolution,
55 agreeing to the effective date of such policy and to the population of
56 each such city, village, law enforcement agency and such territory



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S. 3701

19

1 outside any such municipal corporation or district, and, if any such law
2 enforcement agency lies wholly or partly within two or more towns, the
3 population of the district within each such town. The population shall
4 be that which is shown by the latest federal census, or, if not shown by
5 such census, then as estimated. The estimate used for any village,
6 district or other area in a town plus the estimated or actual population
7 of all other villages, districts and areas in such town shall not exceed
8 the population of such town as shown by the latest federal census. It
9 shall be the duty of the chairman of the board of supervisors of the
10 county, upon the filing of such resolutions and agreement, promptly to
11 contract for insurance indemnifying against the liability imposed by
12 this chapter in the manner provided in section thirty of this article.
13 Except by mutual consent of the participating members, a member may
14 withdraw from such a group only upon the anniversary date of the policy,
15 and then only upon thirty days' notice of withdrawal by mail to the
16 chairman of the board of supervisors. The cost of such insurance shall
17 be apportioned by the clerk of the board of supervisors of the county to
18 each such city, village, law enforcement agency and such territory
19 outside such municipal corporations and districts, in the proportion
20 that the agreed population bears to the entire population of the group.
21 Refunds, dividends and discounts in relation to such insurance shall be
22 distributed or credited according to the same apportionment. Upon
23 notification by the clerk of the board of supervisors, the chief fiscal
24 officer of each such city, village or law enforcement agency shall pay
25 to the county treasurer, from moneys available or made available, the
26 amount apportioned to such city, village or district. Upon like notifi-
27 cation, the supervisor of each town in which such law enforcement agency
28 is located in whole or in part, or in which such outside territory is
29 located, shall pay to the county treasurer the amount apportioned for
30 such district, in whole or in part, or territory, as the case may be,
31 using moneys raised or made available for the purposes of service in
32 such district or outside territory, or if there be no such moneys or
33 insufficient moneys, using funds of the town available or made avail-
34 able, which funds shall be a charge upon such district or territory for
35 which the town shall be reimbursed. The county treasurer shall pay the
36 cost of such insurance with such moneys, or if any apportioned share has
37 not been paid, the county treasurer shall advance the amount necessary
38 from moneys of the general fund upon resolution of the board of supervi-
39 sors. Any such advance shall be repaid as soon as moneys are available
40 therefor. If any apportioned share remains unpaid, the county may
41 recover the same by action at law. If any member of the group shall fail
42 to pay its apportioned share within thirty days after notice that such
43 amount has become due and payable, the chairman of the board of supervi-
44 sors may terminate the participation of such member in the group by
45 notice by mail to such member on a date specified in the notice, and a
46 copy of such notice shall be filed by the chairman of the board of
47 supervisors with the insurance carrier, who shall notify the chairman of
48 the workers' compensation board of the termination of coverage in the
49 same manner as provided for cancellation of policy under subdivision
50 five of section fifty-four of the workers' compensation law. If any
51 village or law enforcement agency is located in two or more counties, it
52 may elect to join such a group in one of such counties. If any law
53 enforcement agency includes territory in more than one county, it shall
54 become a participant only if all the town boards acting for and on
55 behalf of such district shall have elected that such district shall
56 become a participant in such a group, and in such case such town boards



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1 shall elect as to which county group it shall join. If any participat-
2 ing law enforcement agency includes territory in more than one town,
3 whether or not in more than one county, the amount of cost of insurance,
4 refund, dividend or discount apportioned to such district shall be
5 apportioned in the proportion that the population of the district within
6 each such town bears to the population of the entire district. The
7 figure used for population in such case shall be the one stated in the
8 agreement. If the boundaries of any city, village, law enforcement
9 agency or such outside territory in the group shall be changed during
10 the effective period of any such insurance policy, or if there are
11 changes in the membership of the group, the agreement heretofore
12 mentioned concerning population shall be appropriately amended by a
13 supplementary agreement to be executed and filed in the same manner as
14 the original agreement, in which case the coverage of the policy and the
15 apportionment of the cost thereof shall be changed accordingly.

16 3. Each policy issued pursuant to subdivisions one and two of this
17 section shall identify clearly each city, town, village, or law enforce-
18 ment agency and outside territory covered thereby.

ARTICLE IV PROCEDURE

21 Section 40. Notice of injury or death.
22 41. Claim for benefits.
23 42. Reports of injuries, claims and proceedings.
24 43. Determination of claims for benefits.
25 44. Presumptions.
26 45. Modification of awards, decisions or orders.
27 46. Appeals.
28 47. Costs and fees.
29 48. Representation before the workers' compensation board.
30 49. Benefits; how payable.
31 50. Payments pending controversies.
32 51. Fund for reopened cases.
33 52. Awards to nonresidents; nonresident compensation fund.
34 53. Enforcement of payment.
35 54. Aggregate trust fund.
36 55. Penalty for false representation.
37 56. Non-duplication of benefits.
38 57. Miscellaneous provisions.
39 58. Application of provisions of workers' compensation law.
40 59. Liberal construction.
41 60. Administrative expenses.
42 61. Death or disability due to disease or malfunction of heart
43 or coronary arteries; claims and procedures.

44 § 40. Notice of injury or death. Notice of an injury or death for
45 which benefits are to be paid or provided under this chapter shall be
46 given to the political subdivision or the law enforcement agency liable
47 for the payment thereof within ninety days after such injury or death
48 except that such notice need not be given if a claim is filed pursuant
49 to section forty-one of this article within ninety days after such inju-
50 ry or death. Either such notice may be given by any person claiming to
51 be entitled to such benefits or by someone in his behalf. The notice
52 shall be in writing, shall contain the name and address of the volunteer
53 peace officer, and state in ordinary language the time, place, nature
54 and cause of the injury and shall be signed by him or by a person on his
55 behalf or, in case of death, by any one or more of his dependents, or by
56 a person on their behalf. The notice shall be given to the clerk of the



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1 board of supervisors of the county, the comptroller or chief financial
2 officer of the city, the town clerk of the town, the clerk of the
3 village, the secretary of the law enforcement agency or the law enforce-
4 ment agency, as the case may be, by delivering it to such officer or by
5 registered letter properly addressed to such officer. The failure to
6 give notice of injury or notice of death shall be a bar to any claim
7 under this chapter unless such failure is excused by the workers'
8 compensation board on any of the following grounds, (1) that for some
9 sufficient reason the notice could not have been given, (2) that a
10 member of a body in charge of, or any officer of, the law enforcement
11 agency had knowledge within such ninety-day period of the injuries or
12 death, (3) that the political subdivision, or its insurance carrier had
13 not been prejudiced by a delay in giving such notice, or (4) that the
14 cause of disablement or death was not known to be the result of service
15 performed in line of duty as a volunteer peace officer in sufficient
16 time to comply with the provisions of this section.

17 § 41. Claim for benefits. The right to claim benefits under this chap-
18 ter shall be barred, except as hereinafter provided, unless within two
19 years after the injury, or, if death results therefrom, within two years
20 after such death, a claim for the benefits under this chapter shall be
21 filed with the chairman of the workers' compensation board and a copy of
22 such claim shall be filed with the same officer to whom a notice of
23 injury must be given under section forty of this article. The right of a
24 volunteer peace officer or his dependents to claim benefits under this
25 chapter for disablement or death, as the case may be, caused by disease
26 shall not be barred by the failure of the volunteer peace officer or his
27 dependents to file a claim within either such period of two years,
28 provided such claim shall be filed after either such period of two years
29 and within ninety days after disablement or ninety days after knowledge
30 that the disease is or was due to service as a volunteer peace officer,
31 whichever is the later date. The claim shall be in substantially the
32 same form and shall give substantially the same information as is
33 required to be given in a claim under the provisions of section twenty-
34 eight of the workers' compensation law. Notwithstanding the provisions
35 of any other law, any such claim need not be sworn to, verified or
36 acknowledged. No case in which an advance payment is made to a volunteer
37 peace officer or to his dependents in case of death shall be barred by
38 the failure of the volunteer peace officer or his dependents to file a
39 claim, and the workers' compensation board may at any time order a hear-
40 ing on any such case in the same manner as though a claim for benefits
41 had been filed.

42 The date of injury caused by disease shall be the date of contracture
43 of such disease as determined by the workers' compensation board on the
44 hearing of the claim and the responsibility of the political subdivision
45 liable for the payment of benefits and its insurance carrier shall be
46 fixed by the date of injury as so determined.

47 § 42. Reports of injuries, claims and proceedings. If an injury is one
48 for which an insurance carrier might be liable under a contract of
49 insurance or a county plan of self-insurance might be required to pay,
50 the officer to whom a notice of injury is required to be delivered or
51 mailed and with whom the claim in relation to such injury is required to
52 be filed under the provisions of this chapter shall send a copy of such
53 notice and claim and a copy of any notice of a proceeding relating to an
54 injury or claim to such insurance carrier or county plan of self-insu-
55 rance, as the case may be, promptly after receiving the same. The poli-
56 tical subdivision or law enforcement agency liable for the payment of



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1 benefits under this chapter shall keep such records and make such
2 reports to the chairman of the workers' compensation board as required
3 by section one hundred ten of the workers' compensation law, which by
4 section fifty-seven of this article is made applicable to this chapter.
5 Failure to comply with the provisions of this section shall not relieve
6 such an insurance carrier of liability or a county plan of self-insu-
7 rance from its obligation to pay.

8 § 43. Determination of claims for benefits. The provisions of section
9 twenty of the workers' compensation law shall be applicable as fully as
10 if set forth in this chapter, except that the waiting period of seven
11 days for the presentation of claims for benefits shall not apply to the
12 presentation of claims for benefits under this chapter.

13 § 44. Presumptions. If a claim for benefits is filed within two years
14 after the injury, or, if death results therefrom, is filed within two
15 years after such death, as provided in section forty-one of this arti-
16 cle, then in any proceeding for the enforcement of such claim, it shall
17 be presumed in the absence of substantial evidence to the contrary:

18 1. That the claim comes within the provisions of this chapter.

19 2. That sufficient notice thereof was given.

20 3. That the injury was not occasioned by the wilful intention of the
21 injured volunteer peace officer to bring about the injury or death of
22 himself or another.

23 4. That the injury did not result solely from the intoxication of the
24 injured volunteer peace officer while acting in line of duty.

25 5. That the contents of medical and surgical reports introduced in
26 evidence by claimants for benefits shall constitute prima facie evidence
27 of fact as to the matter contained therein.

28 § 45. Modification of awards, decisions or orders. The provisions of
29 section twenty-two of the workers' compensation law shall be applicable
30 as fully as if set forth in this chapter.

31 § 46. Appeals. The provisions of section twenty-three of the workers'
32 compensation law shall be applicable as fully as if set forth in this
33 chapter except that reimbursement following modification or recession
34 upon appeal shall be paid from administration expenses as provided by
35 section sixty of this article.

36 § 47. Costs and fees. The provisions of section twenty-four of the
37 workers' compensation law shall be applicable as fully as if set forth
38 in this chapter.

39 § 48. Representation before the workers' compensation board. The
40 provisions of section twenty-four-a of the workers' compensation law
41 which are not inconsistent with the provisions of this chapter shall be
42 applicable as fully as if set forth in this chapter.

43 § 49. Benefits; how payable. Except as otherwise provided in subdivi-
44 sions one and two of section seven of this chapter, benefits under this
45 chapter shall be paid in the manner provided in section twenty-five of
46 the workers' compensation law. The provisions of such section twenty-
47 five, other than those relating to welfare, pension or benefit plans,
48 agreements and trusts, shall be applicable as fully as if set forth in
49 this chapter.

50 § 50. Payments pending controversies. In order that the benefits to be
51 paid and provided under this chapter shall be paid promptly where such
52 benefits are conceded to be due to any person because of the death of or
53 injuries to a volunteer peace officer, but controversy exists as to
54 which political subdivision or law enforcement agency is liable for the
55 payment thereof, the municipal corporations, law enforcement agencies
56 involved in such controversy and their insurance carriers, if any, may



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1 agree that any one or more of such municipal corporations, law enforce-
2 ment agency or its insurance carrier shall pay or provide the benefits
3 to, or in relation to, the person conceded to be entitled to such bene-
4 fits without waiting for a final determination of the controversy, and
5 may carry out the provisions of such an agreement. Notwithstanding any
6 such payment, any party to the agreement may seek a final determination
7 of the controversy in the same manner as if such benefits had not been
8 paid or provided and any such payment or provision of benefits shall not
9 prejudice any rights of the political subdivision, law enforcement agen-
10 cy or its insurance carrier paying or providing the same, nor be taken
11 as an admission against interest. After a final determination the
12 parties to the agreement shall make any necessary and proper reimburse-
13 ment to conform to the determination.

14 § 51. Fund for reopened cases. 1. The provisions of section twenty-
15 five-a of the workers' compensation law shall be applicable as fully as
16 if set forth in this chapter, except that, other than with respect to
17 the annual assessment under such section, payments to an executor or
18 administrator of the estate of a volunteer peace officer pursuant to
19 subdivision two of section seven of this chapter shall not constitute
20 payment of benefits for the purpose of determining the amount of the
21 payment to the fund for reopened cases. Benefits paid to volunteer peace
22 officers and other persons entitled to benefits under this chapter from
23 the fund for reopened cases shall be in accordance with the provisions
24 of this chapter.

25 2. The insurance carrier or entity responsible for payment of benefits
26 paying such benefit increase shall claim for such benefit increase
27 reimbursement from the special fund for reopened cases commencing one
28 year from the date of the first such payment and annually thereafter
29 while such payments continue, on a form prescribed by the chair.

30 3. All carriers shall pay benefits in conformance with rates set
31 forth in section eight of this chapter without awaiting modification by
32 the board of any prior inconsistent award.

33 § 52. Awards to nonresidents; nonresident compensation fund. The
34 provisions of section twenty-five-b of the workers' compensation law
35 shall be applicable as fully as if set forth in this chapter.

36 § 53. Enforcement of payment. 1. The provisions of section twenty-six
37 of the workers' compensation law, other than the portions relating to
38 section fourteen-a, subdivision eight of section fifteen and section
39 fifty of the workers' compensation law, shall be applicable as fully as
40 if set forth in this chapter.

41 2. The provisions of section fifty-four-b of the workers' compensation
42 law shall be applicable as fully as if set forth in this chapter.

43 § 54. Aggregate trust fund. The provisions of section twenty-seven of
44 the workers' compensation law which are not inconsistent with the
45 provisions of this section, shall be applicable as fully as if set forth
46 in this chapter with respect to claims for benefits under this chapter.

47 § 55. Penalty for false representation. If, for the purpose of obtain-
48 ing any benefit or payment under the provisions of this chapter, or for
49 the purpose of influencing any determination regarding any benefit or
50 payment under the provisions of this chapter, either for himself or for
51 any other person, any person wilfully makes a false statement or repre-
52 sentation, he shall be guilty of a misdemeanor.

53 § 56. Non-duplication of benefits. If benefits are required to be paid
54 under this chapter in the event of injury to or death of a volunteer
55 peace officer, the volunteer peace officer or other persons entitled to
56 such benefits shall not receive workers' compensation under the



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S. 3701

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1 provisions of the workers' compensation law in relation to such injury
2 or death.

3 § 57. Miscellaneous provisions. The provisions of article seven of the
4 workers' compensation law which are not inconsistent with the provisions
5 of this chapter shall be applicable as if fully set forth herein. The
6 reference to sections twenty-five-a and fifty of the workers' compen-
7 sation law in section one hundred twenty-three of the workers' compen-
8 sation law shall be deemed to refer to sections fifty-one and thirty of
9 this chapter.

10 § 58. Application of provisions of workers' compensation law. All the
11 powers and duties conferred or imposed upon the chairman of the workers'
12 compensation board and the workers' compensation board by the workers'
13 compensation law which are necessary for the administration of this
14 chapter and not inconsistent with this chapter are, to that extent, made
15 applicable to this chapter, even though such provisions of the workers'
16 compensation law are not expressly made applicable to this chapter by
17 the provisions of this chapter or the workers' compensation law.

18 § 59. Liberal construction. The provisions of this article relating to
19 giving notice of injury and filing of claim, and to the contents of any
20 such notice or claim, shall be construed liberally in order to effectuat-
21 ate the objects and purposes of this chapter.

22 § 60. Administrative expenses. 1. The chairman of the workers' compen-
23 sation board and the department of audit and control, as soon as practi-
24 cable after April first, next succeeding the effective date of this
25 chapter, and annually as soon as practicable after April first in each
26 year thereafter, shall ascertain the total amount of expenses, including
27 in addition to the direct costs of personal service, the cost of mainte-
28 nance and operation, the cost of retirement contributions made and work-
29 ers' compensation premiums paid by the state for or on account of
30 personnel, rentals for space occupied in state owned or state leased
31 buildings, such additional sum as may be certified to the chairman of
32 the workers' compensation board and the department of audit and control
33 as a reasonable compensation for services rendered by the department of
34 law and expenses incurred by such department, and all other direct or
35 indirect costs, incurred by the chairman or the board during the preced-
36 ing fiscal year in connection with the administration of this chapter
37 and in connection with the preparations for the taking effect thereof.
38 The services and expenses of the members, employees and officers of the
39 board related to this chapter and such preparations shall be apportioned
40 and included in the amount to be assessed. If any officers or employees
41 of the state perform duties directly which in part are related to the
42 administration of this chapter and such preparations and in part not
43 related thereto and if there are other expenses which are incurred
44 jointly in connection with the administration of this chapter and such
45 preparations and in activities not so connected, an equitable apportion-
46 ment shall be made and only such parts thereof as apply to the adminis-
47 tration of this chapter and such preparations shall be chargeable to the
48 administrative expenses as provided in this section.

49 2. An itemized statement of the expenses so ascertained shall be open
50 to public inspection in the office of the chairman for thirty days after
51 notice to all carriers by publication, before an assessment may be made
52 upon such carriers as hereinafter provided.

53 3. The expenses of administration, including such expenses for prepa-
54 ration, for the fiscal years ending March thirty-first, in the year of
55 and the year following the effective date of this chapter shall be
56 consolidated and reimbursed by one assessment made after April first, in



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S. 3701

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1 the year following the year of the effective date of this chapter. The
2 chairman shall as soon as practicable after April first, in the year
3 following the year of the effective date of this chapter, assess upon
4 and collect from each carrier the proportion of such consolidated
5 expenses for the fiscal years ending March thirty-first, in the year of
6 and the year following the effective date of this chapter, and annually
7 thereafter as soon as practicable after the close of each fiscal year
8 the proportion of such expenses for the preceding fiscal year, that the
9 total indemnity benefit payments made by such carrier in such year bore
10 to the total indemnity benefit payments made by all insurance carriers.
11 The amounts so secured shall be used to reimburse the state treasury for
12 appropriations theretofore made by the state for the payment in the
13 first instance of the expenses of administering this chapter and in
14 connection with the preparations for the taking effect thereof.

15 4. The board shall keep an accurate record of all hearings held. Where
16 the decision of a referee is affirmed by the board upon review, the
17 board shall assess against each insurance carrier seeking such review
18 the sum of twenty-five dollars and may assess against any other party
19 the sum of five dollars. These assessments shall be paid into the state
20 treasury.

21 5. The provisions of subdivision two of section one hundred fifty-one
22 of the workers' compensation law shall not be applicable with respect to
23 the apportionment and assessment of the expenses of administering this
24 chapter, but shall be applicable with respect to the apportionment and
25 assessment to replenish the fund for reopened cases under section twen-
26 ty-five-a of the workers' compensation law and section fifty-one of this
27 article.

28 6. Assessments for the fund for reopened cases and for the operations
29 of the workers' compensation board shall not constitute elements of loss
30 but shall for recoupment purposes be treated as separate costs by carri-
31 ers. Carriers shall assess such costs on their policyholders in accord-
32 ance with rules set forth by the New York compensation insurance rating
33 board, as approved by the superintendent of insurance.

34 7. Notwithstanding the provisions of subdivision three of this
35 section, the chair may require that partial payments for expenses of the
36 fiscal year beginning April first, in the year of the effective date of
37 this chapter, and for each fiscal year thereafter, shall be made on June
38 thirtieth, September thirtieth, December thirty-first and March tenth of
39 each year, or on such other dates as the director of the budget may
40 prescribe, by each insurance carrier, including the state insurance
41 fund. Each such payment shall be a sum equal to twenty-five per centum
42 of the annual expenses assessed upon each carrier, including the state
43 insurance fund, as estimated by the chair. The balance of assessments
44 for the fiscal year beginning April first, in the year of the effective
45 date of this chapter and each fiscal year thereafter, shall be paid upon
46 determination of the actual amount due in accordance with the provisions
47 of subdivision three of this section. Any overpayment of annual assess-
48 ments resulting from the requirements of this subdivision shall be
49 refunded or at the option of the chair shall be applied as a credit
50 against the assessment of the succeeding fiscal year. The requirements
51 of this subdivision shall not apply to those carriers whose estimated
52 annual assessment is less than one hundred dollars and such carriers
53 shall make a single payment of the estimated annual assessment on or
54 before September thirtieth of the fiscal year.

55 8. Commencing with the fiscal year beginning April first, in the year
56 following the year of the effective date of this chapter, the provisions



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1 of subdivision six of this section shall be applicable to any county,
2 city, town, village or other political subdivision failing to secure
3 insurance pursuant to subdivisions eight and nine of section thirty of
4 this chapter.

5 § 61. Death or disability due to disease or malfunction of heart or
6 coronary arteries; claims and procedures. 1. A claim for benefits for
7 the death or disability of a volunteer peace officer due to disease or
8 malfunction of the heart or of one or more coronary arteries filed in
9 accordance with section forty-one of this article, shall not be denied
10 provided the claimant introduces evidence which establishes that a
11 volunteer peace officer suffered disease or malfunction of the heart or
12 of one or more coronary arteries which caused the disablement or death
13 of the volunteer peace officer, and that such disease or malfunction
14 resulted from the duties and activities in which the volunteer peace
15 officer was engaged as set forth in section five of this chapter for
16 which benefits shall be paid, unless it can be shown by substantial
17 evidence to the contrary that the duties and activities of the volunteer
18 peace officer in which the volunteer peace officer was engaged at the
19 time of such disease or malfunction did not cause or precipitate such
20 disease or malfunction; and further provided that the injury did not
21 result solely from the intoxication of the volunteer peace officer while
22 acting in line of duty or was not occasioned by the wilful intention of
23 the volunteer peace officer to bring about the injury or death of
24 himself or another.

25 2. The chairman of the workers' compensation board shall promulgate
26 rules and regulations providing a priority for controverted claims for
27 benefits filed as provided in subdivision one of this section. Such
28 rules and regulations shall also prescribe a form to be used for making
29 claims for such benefits. Such form shall specifically request the
30 information necessary in order to receive an award of benefits.

31 3. This section shall not be construed to repeal by implication any
32 existing provision of law.

ARTICLE V

EFFECT UPON OTHER LAWS

35 Section 90. References to workers' compensation law.

36 § 90. References to workers' compensation law. Where the provisions of
37 any section or part of any section of the workers' compensation law are
38 made applicable to this chapter and are incorporated herein by refer-
39 ence, the following terms used in such provisions of the workers'
40 compensation law shall have the following meanings when read in
41 connection with this chapter:

42 1. "Accident" means "injury" as defined in this chapter.

43 2. "Dependent husband" means the "surviving spouse" of a female volun-
44 teer peace officer, as defined in this chapter.

45 3. "Employee" means a volunteer peace officer who has been or might be
46 injured in line of duty or who dies or might die from the effects of
47 such an injury.

48 4. "Employment" means service of a volunteer peace officer in line of
49 duty.

50 5. "Employer" means the political subdivision or law enforcement agen-
51 cy liable for payment of financial benefits pursuant to this chapter.

52 6. "Injury" means "injury" as defined in this chapter.

53 7. "Injured worker" means injured volunteer peace officer.

54 8. "Insurance carrier" means "insurance carrier" as defined in this
55 chapter.



THE NEW YORK STATE ASSOCIATION OF AUXILIARY POLICE

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27

1 9. "Same employ" means the same law enforcement agency, or in the same
2 service for a political subdivision, or district or area thereof, pursu-
3 ant to a call for assistance.

4 10. "Workers' compensation" means the benefits payable to a volunteer
5 peace officer or his dependents pursuant to this chapter, including
6 medical treatment and care, except when a different meaning obviously is
7 intended.

8 Where any such section is so made applicable and is so incorporated,
9 and there is a reference therein to another section or provision of the
10 workers' compensation law which also has been made applicable to this
11 chapter, such reference shall be deemed to include the applicable
12 section or provision of this chapter if such inclusion is consistent
13 with the provisions of this chapter.

14 § 2. Section 837 of the executive law is amended by adding a new
15 subdivision 17 to read as follows:

16 17. Operate a registry of volunteer peace officer programs established
17 by local municipalities pursuant to section two hundred six-c of the
18 general municipal law, and prescribe a training course for such peace
19 officers.

20 § 3. The general municipal law is amended by adding a new section
21 206-c to read as follows:

22 § 206-c. Volunteer peace officer programs. 1. As used in this section,
23 a volunteer peace officer shall mean an unpaid employee of a program
24 registered with the division of criminal justice services pursuant to
25 subdivision seventeen of section eight hundred thirty-seven of the exec-
26 utive law, who has been trained by police, sheriff or other academy
27 approved by such division.

28 2. Any local municipality may establish a volunteer peace officer
29 program by registering with the division of criminal justice services,
30 including a roster of applicants, all of whom shall meet the qualifica-
31 tions listed in subdivision three of this section.

32 3. Applicants for volunteer peace officer shall meet all of the
33 following qualifications:

34 a. Be a citizen of the United States and a resident of the state of
35 New York.

36 b. Be at least twenty-one years of age and no more than sixty-five
37 years of age. Continuance as a volunteer peace officer depends on such
38 person's ability to fulfill assigned duties as determined by munici-
39 palities approved by a physician in conjunction with the provisions of
40 this subdivision.

41 c. Pass a general physical as prescribed by the hiring municipality
42 and given by an authorized doctor who is familiar with the demands of
43 active police work. Such physical shall include eyesight correctable to
44 a minimum standard as prescribed by the division of criminal justice
45 services.

46 d. Pass any other qualifying tests necessary for their duties as
47 prescribed by hiring municipality by persons qualified in their respec-
48 tive areas such as but not limited to eyesight, agility and psycholog-
49 ical exams.

50 e. Pass ongoing physical and other tests as deemed necessary by the
51 hiring municipality to qualify for ongoing employment.

52 f. Have a valid driver's license free from major moving violations.
53 g. Have both a verbal and written proficiency in the English language.

54 4. In addition to the requirements of subdivision three of this
55 section, the local municipality shall provide an interview procedure,
56 including the fingerprinting of the individual. The fingerprints shall



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1 be used as a check on any prior criminal history which would disqualify
2 the applicant from peace officer status.

3 5. The municipality may petition the division of criminal justice
4 services for specific limited duty waivers as to age, physical condi-
5 tion, driving ability, or fluency in English.

6 6. Applicant must pass a training course prescribed by the division of
7 criminal justice services. The municipality shall establish a standard
8 operating procedure, which shall be filed with the division, and which
9 shall set forth the duties anticipated which may include unarmed self
10 defense, use of impact and chemical weapons; traffic control and driving
11 skills. If the officer is required to carry a firearm, training shall
12 be given as prescribed by the division, and an appropriate license shall
13 be obtained as provided in section 400.00 of the penal law.

14 7. Upon successful completion of all required classes and tests, the
15 applicant will be registered with the division as a volunteer peace
16 officer and will have the legal status of a peace officer while perform-
17 ing authorized activities within the duties assigned by the local muni-
18 cipality.

19 § 4. Section 2.10 of the criminal procedure law is amended by
20 adding a new subdivision 83 to read as follows:

21 83. Volunteer Peace Officers pursuant to the general municipal law
22 section 206-c ; provided, however, that nothing in this subdivision shall
23 be deemed to authorize such officer or agent to carry, possess, repair,
24 or dispose of a firearm unless the appropriate license therefor has been
25 issued pursuant to section 400.00 of the penal law; and provided further
26 that such officer or agent shall exercise the powers of a peace officer
27 only when he is acting pursuant to his special duties.

28 § 5. Effect of unconstitutionality in part. If any clause, sentence,
29 paragraph, subdivision, section or part of the volunteer peace officers'
30 benefit law, as established by section one of this act, shall be
31 adjudged by any court of competent jurisdiction to be invalid, such
32 judgement shall not affect, impair or invalidate the remainder thereof,
33 but shall be confined in its operation to the clause, sentence, para-
34 graph, subdivision, section or part thereof directly involved in the
35 controversy in which such judgement shall have been rendered.

36 § 6. This act shall take effect on April first next succeeding the
37 date on which it shall have become a law.