

BE

LAWS OF 20 07

SENATE BILL _____

ASSEMBLY BILL A4697

STATE OF NEW YORK

4697

2007-2008 Regular Sessions

IN ASSEMBLY

February 5, 2007

Introduced by M. of A. SILVER, ABBATE, JOHN, FARRELL, TEDISCO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code

S 2509 Golden

DATE RECEIVED BY GOVERNOR:

MAR 01 2007

ACTION MUST BE TAKEN BY:

MAR 13 2007

DATE GOVERNOR'S ACTION TAKEN:

MAR 13 2007

SENATE VOTE 59 Y 0 N

HOME RULE MESSAGE Y N

DATE 2/27/07

ASSEMBLY VOTE 122 Y 0 N

DATE 2/14/07

000002

A4697 Silver (MS) Same as S 2509 GOLDEN
 02/27/07 A4697 Senate Vote
 02/14/07 A4697 Assembly Vote

Aye: 59 Nay: 0
 Yes: 122 No : 10

Go to Top of Page

02/27/07 A4697 Senate Vote Aye: 59 Nay: 0

Aye Adams	Aye Alesi	Aye Bonacic	Exc Breslin
Aye Bruno	Aye Connor	Aye DeFrancisco	Aye Diaz
Aye Dilan	Aye Duane	Aye Farley	Aye Flanagan
Aye Fuschillo	Aye Golden	Aye Gonzalez	Aye Griffo
Aye Hannon	Aye Hassell-Thompson	Exc Huntley	Aye Johnson C
Aye Johnson O	Aye Klein	Aye Krueger	Aye Kruger
Aye Lanza	Aye Larkin	Aye LaValle	Aye Leibell
Aye Libous	Aye Little	Aye Maltese	Aye Marcellino
Aye Maziarz	Aye Montgomery	Aye Morahan	Aye Nozzolio
Exc Onorato	Aye Oppenheimer	Aye Padavan	Aye Parker
Aye Perkins	Aye Rath	Aye Robach	Aye Sabini
Aye Saland	Aye Sampson	Aye Savino	Aye Schneiderman
Aye Serrano	Aye Seward	Aye Skelos	Aye Smith
Aye Stachowski	Aye Stavisky	Aye Stewart-Cousins	Aye Thompson
Aye Trunzo	Aye Valesky	Aye Volker	Aye Winner
Aye Wright	Aye Young		

Go to Top of Page

02/14/07 A4697 Assembly Vote Yes: 122 No : 10

ER Abbate	Yes Alessi	Yes Alfano	Yes Arroyo
Yes Aubertine	Yes Aubry	Yes Bacalles	Yes Ball
Yes Barclay	Yes Barra	Yes Benedetto	Yes Benjamin
Yes Bing	Yes Boyland	Yes Boyle	Yes Bradley
No Brennan	ER Brodsky	Yes Brook-Krasny	ER Burlingame
Yes Butler	Yes Cahill	Yes Calhoun	No Camarillo
Yes Canestrari	Yes Carrozza	Yes Christensen	Yes Clark
Yes Cole	Yes Colton	ER Conte	Yes Cook
Yes Crouch	Yes Cusick	ER Cymbrowitz	Yes DelMonte
Yes Destito	Yes Diaz L	Yes Diaz R	Yes Dinowitz
Yes Duprey	ER Eddington	Yes Englebright	ER Errigo
Yes Espaillat	Yes Farrell	Yes Fields	Yes Finch
Yes Fitzpatrick	Yes Gabryszak	Yes Galef	ER Gantt
Yes Gianaris	Yes Giglio	No Glick	Yes Gordon D
Yes Gordon T	No Gottfried	Yes Grannis	Yes Greene
ER Gunther A	Yes Hawley	ER Hayes	Yes Heastie
No Hevesi	Yes Hikind	Yes Hooper	Yes Hoyt
ER Hyer-Spencer	Yes Ignizio	Yes Jacobs	Yes Jaffee
Yes Jeffries	Yes John	No Kavanagh	Yes Kirwan
Yes Kolb	Yes Koon	Yes Lafayette	Yes Lancman
Yes Latimer	Yes Lavine	Yes Lentol	No Lifton
Yes Lopez P	No Lopez V	Yes Lupardo	Yes Magee
Yes Magnarelli	Yes Maisel	Yes Markey	ER Mayersohn
ER McDonald	Yes McDonough	Yes McEneny	Yes McKeivitt
Yes Miller	Yes Millman	ER Molinaro	Yes Morelle
Yes Nolan	Yes Oaks	No O'Donnell	Yes O'Mara
Yes Ortiz	Yes Parment	Yes Paulin	Yes Peoples
Yes Peralta	Yes Perry	Yes Pheffer	No Powell
Yes Pretlow	Yes Quinn	Yes Rabbitt	Yes Raia
Yes Ramos	Yes Reilich	Yes Reilly	Yes Rivera J
Yes Rivera N	Yes Rivera P	Yes Robinson	Yes Rosenthal
Yes Saladino	Yes Sayward	Yes Scarborough	Yes Schimminger
Yes Schroeder	Yes Scozzafava	Yes Seminerio	Yes Spano
Yes Stirpe	ER Sweeney	Yes Tedisco	Yes Thiele
Yes Titus	Yes Tonko	Yes Towns	Yes Townsend

Yes Walker
Yes Wright

Yes Weinstein
Yes Young

ER Weisenberg
Yes Zebrowski

Yes Weprin
Yes Mr. Speaker

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A4697

SPONSOR: Silver (MS)

TITLE OF BILL: An act to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code

PURPOSE:

The purpose of the bill is to make technical and clarifying amendments to Chapter 445 of the Laws of 2006, a bill which amends existing law by entitling an accidental death benefit to beneficiaries of governmental World Trade Center (WTC) responders who, in the performance and discharge of duty, were exposed to toxic substances in the aftermath of the terrorist attack on September 11, 2001 and who, have met the eligibility requirements pursuant to Chapter 104 of the Laws of 2005.

SUMMARY OF SPECIFIC PROVISIONS:

Sections 1-21 of the bill provide for an accidental death benefit for members of police, fire, EMT, sanitation, sheriff deputies, state troopers and other uniformed personnel who participated between September 11, 2001 and September 12, 2002 in rescue; recovery, clean-up and related activity at or near ground zero, worked at the Fresh Kills Land Fill, worked at the New York morgue or the temporary morgue on pier locations on the west side of Manhattan, or manned barges between the west side of Manhattan and the Fresh Kills Land Fill. The accidental death benefit, pursuant to eligibility presumptions outlined in Chapter 104 of the Laws of 2005, attaches when the qualifying member registered within the time period specified in such law, or would have met the criteria if not already retired on an accidental disability, and it is determined by competent evidence that the cause of death resulted from a disease enumerated in Chapter 104 of the Laws of 2005.

Section 22 of the bill cures an omission under Chapter 104 of the laws of 2005 by making correction officers eligible for accidental disability benefits as well as making such members eligible for the accidental death benefit created under this bill.

Section 23 of the bill makes it effective immediately, except that Sec. 22 is made retroactive to the commencement date of Chapter 104 of the Laws of 2005 so correction officers have the same start date on eligibility as the other covered members.

JUSTIFICATION:

By clarifying the legislative intent of the parent chapter, this bill will more clearly define the entitlement of an accidental death benefit to beneficiaries of governmental responders who, in the performance and discharge of duty, were exposed to toxic substances in the aftermath of the terrorist attack on September 11, 2001 and who, have met the eligibility requirements pursuant to Chapter 104 of the laws of 2005.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately and shall be deemed to have been in full force and effect on the same date and in the same manner as Chapter 445 of the Laws of 2006.

DIVISION OF THE BUDGET BILL MEMORANDUM

Session Year 2007

SENATE:
No.

ASSEMBLY:
No. 4697

Primary Sponsor: M. of A. Silver

Law: General Municipal Law
Retirement and Social Security Law

Sections: 208-f
63, 363, 363-bb, 556, 605, 605-a,
605-b, 605-c, 607-b
13-252, 13-353, 13-168

Administrative Code of the City of New
York

Division of the Budget recommendation on the above bill

APPROVE: VETO: NO OBJECTION:

1. Subject and Purpose:

This bill would amend Chapter 445 of the Laws of 2006. That chapter allowed eligible survivors of certain public employees who participated in the rescue, recovery and cleanup efforts associated with the September 11, 2001 attack on the World Trade Center (WTC), and who die as the result of a disease covered by the WTC presumptive disability law (Chapters 104 and 93 of the Laws of 2005), to receive a special accidental death benefit. The survivors of police officers and firefighters entitled to a special accidental death benefit receive an annual benefit equal to the employee's salary. If the employee was employed by New York City, the City pays the entire benefit in the first instance, and is reimbursed by the State at the end of the year for fifty percent of the cost.

2. Summary of Provisions:

Sections 1 and 2 amend the General Municipal Law to address a major flaw in last year's chapter. The intent of the 2006 chapter was to cover both eligible active employees and retirees who died from a disease listed in the WTC presumptive disability bill. However, the chapter was defective; while it covered active employees who died from a qualifying disease, it unintentionally omitted a large portion of retired employees it sought to qualify. Retired State, local government, and Port Authority of New York and New Jersey employees were covered, but retired New York City employees were excluded from fully receiving the intended benefit. Under existing law, the survivors of these excluded employees are entitled to the fifty percent of salary benefit paid for by the City, but are disqualified from receiving the other fifty percent paid by the State.

This defect, if left uncorrected, could adversely impact one of the bill's high-profile beneficiaries, the daughter of New York City Police Department (NYPD) Detective James Zadroga, who has been denied the intended benefit of Chapter 445.

These sections, in conjunction with Sections 3 through 22 of the bill, are also intended to remedy other technical flaws in last year's chapter, specifically the accidental omission of certain New York City (NYC) correction officers and sheriffs at risk of not receiving the chapter's intended benefit.

Section 23 provides that the act shall take effect retroactive to the effective date of last year's chapter.

3. Legislative History:

This is a new bill. Chapter 445 of the Laws of 2006 established a special accidental death benefit for eligible survivors of certain public employees who participated in the rescue, recovery, and cleanup efforts associated with the September 11, 2001 attacks on the World Trade Center. Chapters 104 and 93 of the Laws of 2005 created the World Trade Center presumptive disability law, which allowed qualifying employees and retirees to receive disability pension benefits.

4. Arguments in Support:

Proponents of this bill claim it should be enacted because a sizeable portion of the intended beneficiaries of last year's chapter, survivors of NYC retirees, were inadvertently disqualified from receiving the full one hundred percent of salary benefit. They argue this legislation will correct these flaws and allow them to receive the benefit intended by last year's chapter.

Furthermore, supporters of this bill would likely argue that the status quo, if left uncorrected, would be extremely inequitable because only a certain proportion of last year's chapter's intended beneficiaries are currently covered. They would argue that the population covered by this bill were only omitted as a result of a technical defect and should be granted the same benefits as those employees and retirees currently covered.

5. Arguments in Opposition:

This bill corrects defects within Chapter 445 of the Laws of 2006, and confers no new additional benefits beyond those intended by last year's chapter. However, the Division of the Budget expressed serious concerns about the bill that enacted that chapter, citing three core concerns: cost and additional financial exposure, precedent concerns, and technical errors. Though the instant bill addresses the technical errors in last year's chapter, these concerns about cost and precedent remain.

When last year's chapter was enacted, the City estimated the additional annual cost to the City and the State to be between \$5 million and \$10 million. The City's estimate, assuming the benefit is provided to all originally intended beneficiaries, has since grown to \$12 million annually to both the City and the State for a total of \$24 million. It should be noted, however, that it is highly unlikely that the State will fully experience this cost in 2007-08 or the immediate years thereafter. Instead, this cost to the State will be phased in over time as qualifying retirees die, thus making their survivors eligible for the benefit conferred by this bill. In 2007-08 and the years directly following, the State's additional costs are expected to be marginal.

As stated last year, the reclassification of benefits for the survivors of previously retired employees and retirees who continued to work after September 11, 2001 is problematic because it would create an open-ended liability. The purpose of an accidental death benefit is to compensate the survivors of an employee because they can no longer depend on the deceased employee's earnings. This proposal would compensate survivors of employees and retirees for a salary which they may not have depended on for as many as 25 years. While this precedent has arguably been set by retirees covered by last year's chapter, this bill's expansion of the precedent is troublesome and would likely cause others to lobby to have this benefit enacted on their behalf.

6. Other State Agencies Interested:

None known.

7. Other Interested Groups:

The City of New York has no position on this bill.

8. Budget Implications:

According to a fiscal note attached to the bill that was prepared by a consulting actuary, there will be no cost to the City beyond the estimated costs of Chapter 445 of the Laws of 2006. The City concurs with this statement; they contend that the additional City obligation caused by this bill (covering City correction officers and sheriffs) was 1) included in the cost estimate used for last year's chapter and 2) marginal compared to the overall cost of last year's bill.

As stated earlier, the City estimates that the total cost of the benefit intended by the last year's chapter to be \$12 million to both the City and the State, for a total of \$24 million. A large portion of this \$12 million is expected to be driven by the City retirees newly covered by this bill. However, the immediate additional fiscal impact of this bill in the near term is expected to be marginal. The full estimated \$12 million impact will only occur as all eligible retirees die, which may not occur for another twenty or thirty years from now.

Another fiscal note prepared by the Actuary for the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) states there will be no additional cost to the State stemming from ERS or PFRS. No additional cost to ERS or PFRS is projected because the additional population covered by this bill is strictly City employees and retirees, who are members or beneficiaries of one of the NYC public retirement systems.

9. Recommendation: No Objection.

The purpose of this bill is to amend Chapter 445 of the Laws of 2006. That chapter allowed eligible survivors of certain public employees who participated in the rescue, recovery and cleanup efforts associated with the September 11, 2001 attack on the World Trade Center (WTC), and who die as the result of a disease covered by the WTC presumptive disability law (Chapters 104 and 93 of the Laws of 2005), to receive a special accidental death benefit. The survivors of police officers and firefighters entitled to a special accidental death benefit receive an annual benefit equal to the employee's salary. If the employee was employed by New York

City, the City pays the entire benefit in the first instance, and is reimbursed by the State at the end of the year for fifty percent of the cost.

While last year's chapter fully covered active employees who died from a qualifying disease, it unintentionally omitted a large portion of retired employees it sought to qualify. Retired State, local government, and Port Authority of New York and New Jersey employees were fully covered, but retired New York City employees were excluded from fully receiving the intended benefit. Under existing law, the survivors of these excluded employees are entitled to the fifty percent of salary benefit paid for by the City, but are disqualified from receiving the other fifty percent paid by the State.

The State will experience increased annual costs as a result of this bill, which are estimated by the City to eventually be as high as \$12 million. However, the costs for 2007-08 and the years immediately thereafter are expected to be marginal, as the State will not be responsible for paying these costs until eligible retirees begin to die in the future. Furthermore, this bill confers no new additional benefits beyond those intended by last year's chapter. Because survivors of State, local government, and Port Authority of New York and New Jersey retirees are eligible to receive the intended benefit of Chapter 445 of the Laws of 2006, it would be extremely inequitable to purposely disqualify one of the largest targeted populations, survivors of NYC retirees, from fully receiving the chapter's intended benefits.

For these reasons, the Division of the Budget has no objection to this bill.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ELIOT SPITZER
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

MEMORANDUM

March 7, 2007

TO: Honorable David Nocenti, Esq.
Counsel to the Governor

FROM: Robert P. Leslie, Esq.
Associate Counsel

SUBJECT: A.4697 (M. of A. Silver)
Recommendation: No Objection

You requested our comments on the above referenced bill.

This bill amends several sections of the Retirement and Social Security Law and the Administrative Code of the City of New York to make technical and clarifying amendments to Chapter 445 of the Laws of 2006. That bill established a presumptive accidental disability retirement benefit relating to exposure in connection with the World Trade Center tragedy.

This bill would provide certain public employees who participated in the rescue, recovery or cleanup operations after the September 11th terrorist attacks on the World Trade Center with a presumption that any resulting disability or death was caused by an accident in the performance and discharge of his or her duty. In order to be eligible for this presumption, an employee would have to have passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability. In addition, the member would have participated in the rescue, recovery or clean up operations at the World Trade Center site, the Fresh Kills Land Fill, the New York City morgue, or manned the barges between the west side of Manhattan and the Fresh Kills Land Fill between September 11, 2001 and September 12, 2002; and have filed a notice with the member's retirement system stating the dates and locations of such employment within two years of the effective date of the bill.

The Department of State notes that the law as amended applies only to those public employees who were subject to a physical examination prior to entry into public service. Numerous public employees, including personnel employed by the Department of State's Office of Fire Prevention and Control, rendered rescue, recovery, and cleanup operations after the terrorist attacks of September 11, 2001 at the former World Trade Center site and other designated locations. Some of these employees, who provided critical assistance and were exposed to numerous hazards, are not included within the scope of Chapter 104 of the Laws of 2005 and this bill because they passed an "employer provided"

physical exam rather than a pre-employment physical prior to September 11, 2001. At that time, the Department of State did not require the Office of Fire Prevention and Control Fire Protection Specialists to take a pre-employment physical examination, and therefore, they are not eligible for the presumptive accidental disability retirement. The Department would seek a chapter amendment to amend the various sections of the Retirement and Social Security Law to provide this group of employees with the same benefits provided to responders and workers who successfully passed a physical examination prior to their entry into public service.

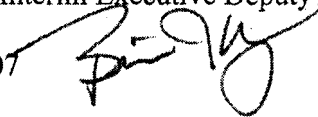
RPL/mel



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12237

Memorandum

To: David Nocenti, Counsel to the Governor
From: Brian Wing, Interim Executive Deputy Commissioner
Date: March 7, 2007 
Subject: Assembly Bill 4697

Your office requested comments on Assembly Bill 4697, which is before the Governor for executive action. This legislation would make technical and clarifying amendments to Chapter 445 of the Laws of 2006. Chapter 445 amended sections of the General Municipal Law, Retirement and Social Security Law and the Administrative Code of the City of New York relating to accidental death benefits for certain individuals involved in the rescue, recovery and clean-up efforts after September 11, 2001.

The bill clarifies that retirees who were exposed to toxic substances during rescue, recovery and clean-up efforts at the World Trade Center (WTC) site and Fresh Kills Landfill are all eligible for the special accidental death benefit. The retirees must have suffered exposure between September 11, 2001 and September 12, 2002 during the performance and discharge of their duties. Eligible individuals include members of the police, fire, emergency medical services, sanitation, sheriff's deputies, New York State Police, corrections officers and other uniformed personnel. This legislation also creates a rebuttable presumption that the individual's injury and subsequent death were a direct result of the individual's participation at the WTC site or the Fresh Kills Landfill.

The Department of Health recommends of approval of Assembly Bill 4697.

000013



New York State Department of Labor
Eliot Spitzer, Governor
M. Patricia Smith, Commissioner

March 9, 2007

The Honorable David Nocenti
Counsel to the Governor
The Capitol, Room 210
Albany, New York 12224

A.4967 - AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code

Dear Mr. Nocenti:

The above-referenced bill would make technical and clarifying amendments to Chapter 445 of the Laws of 2006, which provides accidental death benefits to beneficiaries of members of police, fire, emergency medical technician, sanitation worker, sheriff's deputy, state trooper and other uniformed personnel who participated in the rescue, recovery, clean-up, and related activity at ground zero and related disaster sites between September 11, 2001 and September 12, 2002. This bill would more clearly define the entitlement of accidental death benefits to beneficiaries of the covered employees and retirees who perished as a result of the attacks.

Furthermore, this bill would make corrections officers eligible for the accidental disability benefits provided to other uniformed personnel under Chapter 104 of the Laws of 2005 and the accidental death benefits provided to other uniformed personnel under Chapter 445 of the Laws of 2006.

As the State agency responsible for the ensuring the safety and health of all governmental employees in New York State, the Department is sensitive to the risks that these brave individuals, both active members and retirees, took to assist in the rescue and recovery of other victims of the September eleventh terrorist attacks. The Department is supportive of ensuring that such individuals and their families are able to support themselves if they fall ill or die as a result of exposure to harmful elements during their heroic efforts.

000014

Additionally, I take note of this bill because of the Department's role on the September Eleventh Worker Protection Taskforce (Taskforce). I have instructed my representative on the Taskforce to make sure that this legislation is brought to the attention of the rest of the Taskforce.

The Department of Labor supports of the enactment of this legislation.

Sincerely,

A handwritten signature in black ink that reads "M Patricia Smith". The signature is written in a cursive style with a large, stylized "M" and "S".

M. Patricia Smith
Commissioner of Labor

cc: David Weinstein
William Estes

000015



STATE OF NEW YORK

ELIOT SPITZER
GOVERNOR

DEPARTMENT OF CIVIL SERVICE
THE STATE CAMPUS
ALBANY, NEW YORK 12239
www.cs.state.ny.us

NANCY G. GROENWEGEN
COMMISSIONER

MEMORANDUM

TO: Honorable David Nocenti
Counsel to the Governor

FROM: Melanie Grossman
Legislative Coordinator

SUBJECT: A. 4697 (Introduced by Silver)
Revised Memorandum

DATE: March 7, 2007

STATUTES INVOLVED: Chapter 455 of the Laws of 2006

EFFECTIVE DATE: This act shall take effect immediately and shall be deemed to have been in full force and effect on the same date and in the same manner as Chapter 445 of the Laws of 2006.

RECOMMENDATION: NO OBJECTION

DISCUSSION:

This bill would amend the General Municipal Law, the Retirement Law and Social Security law as well as the Administrative Code of the city of New York. It seeks to allow an accidental death benefit related to the terrorist attack on September 11, 2001. It would, in turn, increase the health insurance premium costs for the State and of other affected employers that participate in the New York State Health Insurance Program (NYSHIP).

Under Section 165.2 of Civil Service Law, the survivors of those who die while performing their duties are eligible to receive free health insurance for as long as they remain eligible as dependent survivors under NYSHIP rules. Since this bill would increase the number of such individuals, there would be a corresponding increase in health insurance costs for the State or other NYSHIP employers.

We are not able to determine how many persons may become eligible for new or increased premium contributions under this bill. However, to give an idea of the cost involved, we estimated the cost for a 50 year old spouse of a State employee with Empire Plan coverage. The actuarial life expectancy of such a person is 308 months. If, prior to this bill, the person would have been a full share survivor (one not entitled to any employer contribution to the cost of the survivor coverage) the new cost to the state for lifetime premiums would be \$517,936 for individual coverage, or \$1,182,218 if family coverage continued for the spouse's lifetime. In addition, there would be an additional \$113,924 liability for one Medicare Part B premium reimbursement starting at age 65, and perhaps more if there was a disabled dependent on Medicare. If the survivor was already entitled to regular dependent survivor coverage (where the State is already required to pay 90% of the cost of individual coverage and 75% of the cost of the dependent coverage), the additional cost to the State for each survivor covered by the bill would be \$51,794 for individual coverage and \$217,864 for family coverage.

The above costs are per individual estimates based upon projected Empire Plan and Medicare premiums, and estimated life expectancy. Naturally, if the survivor lives longer, the costs are greater, or visa versa. There is no way to estimate the number of persons who might be eligible for new or increased employer contributions under this bill.

000017

THOMAS P. DINAPOLI
STATE COMPTROLLER



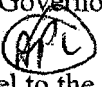
110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

10-DAY BILL MEMORANDUM

March 12, 2007

TO: David Nocenti
Counsel to the Governor

FROM: Alan Lebowitz 
General Counsel to the Comptroller

SUBJECT: A.4697 (Silver, et al.); in Senate, S.2509 (Golden)

.....

This bill would amend the Retirement and Social Security Law, the General Municipal Law and the Administrative Code of New York City. With regard to the New York State payment for reimbursement for eligible beneficiaries of New York City retirees, this bill would provide certain special accidental death benefits for beneficiaries of certain eligible retirees who died as the result of the World Trade Center tragedy of September 11, 2001 and satisfied statutory criteria.

For each death determined to be accidental with respect to eligible New York City retirees, the annual additional benefit for each affected beneficiary would be approximately fifty percent of the eligible deceased retiree's annual salary. The costs for these additional benefits would be borne by the State of New York. The number of eligible beneficiaries cannot be determined at this time.

000018



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES
80 WOLF ROAD, ALBANY, NEW YORK 12205
TELEPHONE: (518) 485-7692
FAX: (518) 485-5140

ELIOT SPITZER
Governor

ROBERT M. MACCARONE
State Director

MEMORANDUM

TO: DAVID NOCENTI
COUNSEL TO THE GOVERNOR

FROM: LINDA J. VALENTI, COUNSEL
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES

DATE: MARCH 8, 2006

RE: A. 4697 (Silver)

Purpose: This bill makes technical and clarifying amendments to Chapter 445 of the Laws of 2006 with respect to accidental death benefits to beneficiaries of governmental World Trade Center (WTC) responders who in performance and discharge of their duties were exposed to toxic substances in the aftermath of the terrorist attack on September 11, 2001 and who have met eligibility requirements established by Chapter 104 of the Laws of 2005.

Comments: The Division of Probation and Correctional Alternatives (DPCA) believes that WTC responders performed heroic services of rescue, recovery, cleanup, and related activity in the aftermath of the September 11, 2001 attacks and recognize that the exposure to toxic substances during their undertaking of such services may well impact their health and welfare of themselves and their families in future years. DPCA supports inclusion of correction officers who were WTC responders as eligible for accidental health benefits and making other technical and clarifying amendments to ensure the legislative intent as to appropriate provision of death benefits associated with this horrific attack are guaranteed.

Position: As this bill seeks to make corrective changes in the law in this area to provide equitable benefits to all WTC responders and clarify other provisions consistent with legislative intent, DPCA recommends that the Governor sign A. 4697 into law.

c: Robert Maccarone, State Director, DPCA
Robin Forshaw, Assistant Counsel to the Governor

000019



State of New York
Governor's Office of Employee Relations
Counsel's Office
2 Empire State Plaza, Suite 1201, Albany, New York 12223
(518) 474-4090 • (518) 486-7304 (Facsimile)

Eliot Spitzer
Governor

George H. Madison
Director

MEMORANDUM

March 7, 2007

TO: David Nocenti
FROM: Walter J. Pellegrini
SUBJECT: A 4697

This legislation, in sections 1-21, reinforces the fact that an individual, who otherwise qualifies for the accidental death benefit, related to participation in the World Trade Center rescue, recovery, and cleanup operations, is presumed to have died as a natural and proximate result of an accident sustained in the performance of duty. This presumption may be rebutted as is made clear by the continuation of the phrase "unless the contrary be proven by competent evidence" in the various sections of the General Municipal and Retirement laws amended herein covering the respective job titles included in Chapter 445 of the Laws of 2006.

Section 22 of the instant bill includes qualified correction officers for the accidental disability and accidental death benefits related to the World Trade Center rescue, recovery and cleanup activities. If such employees qualify pursuant to the statutory standards, this Office sees no reason to exclude them from the same benefits enjoyed by the other uniformed personnel responding to the September 11, 2001 disaster.

The inclusion of Correction Officers at this time begs the question: who else? The retirement laws are complicated enough and piecemeal inclusions of groups for added benefits should be avoided. However, that said, an aversion to piecemeal legislative inclusions should not preclude the amendment suggested by this legislation.

000020

Finally, while this Office has no expertise in the actuarial calculations of the retirement systems, it seems curious that no additional cost is estimated by the inclusion of a new set of public employees eligible for accidental and accidental death disabilities.

For the reason stated above, this Office has **no objection** to the above-cited bill A-4697.

WJP/mc

000021



BRIAN S. FISCHER
ACTING COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

March 5, 2007

Honorable David Nocenti
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

Re: A4697

Dear Mr. Nocenti:

With regard to the above-referenced bill, A4697, the Department of Correctional Services has no objection to this legislation, which provides an accidental death benefit related to the terrorist attack on September 11, 2001 and makes technical corrections to the general municipal law, the retirement and social security law and the administrative code of the city of New York.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Brian Fischer
Acting Commissioner

cc: John R. Patterson, Jr.
Anthony J. Annucci

000022



DENIS M. HUGHES
President

PAUL F. COLE
Secretary-Treasurer

ED DONNELLY
Legislative Director

March 8, 2007

Honorable Eliot Spitzer
Governor of the State of New York
State Capitol
Albany, New York 12224

ATT: David Nocenti:

RE: A4697/S2509

The New York State AFL-CIO, representing over 2 million union members, our families and our retirees supports the above referenced legislation.

This legislation will more clearly define the entitlement of an accidental death benefit to beneficiaries of governmental responders who, in the performance and discharge of duty, were exposed to toxic substances in the aftermath of the terrorist attack on September 11, 2001 and, who have met the eligibility requirements pursuant to Chapter 104 of the laws of 2005.

Therefore, we urge you to sign this bill forthwith.

For further information contact Ed Donnelly, Legislative Director at 518-436-8516.

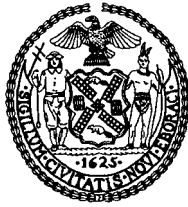
Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Donnelly". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Ed Donnelly
Legislative Director

ED:eb
opeiu-153
Letter # 4/2007

000023



THE CITY OF NEW YORK
OFFICE OF THE MAYOR

MICHELLE L. GOLDSTEIN
Director
State Legislative Affairs

253 Broadway, 14th Floor
New York, New York 10007
(212) 788-8820

119 Washington Avenue
Albany, New York 12210
(518) 447-5200

MEMORANDUM

TO: Honorable David Nocenti
Counsel to the Governor

FROM: Michelle L. Goldstein

DATE: March 14, 2007

RE: A.4697 - by M of A Silver / S.2509 – by Senator Golden

AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code.

You have requested the comments and recommendation of the Mayor concerning the above bill, which is before the Governor for executive action.

Please be advised that the Mayor has **no opposition** to this legislation.

000024



"Feeney, Andrew"
<Andrew.Feeney@semo.state.ny.us>

03/10/2007 09:13 AM

To <legislative.secretary@chamber.state.ny.us>

cc "Agostino, John" <John.Agostino@semo.state.ny.us>, "Gibb, John" <John.Gibb@semo.state.ny.us>

bcc

Subject Bill A4697

The New York State Emergency Management Office offers no opinion on A4697. As the State's grantee for the World Trade Center Captive Fund, it would be a conflict for SEMO to take a position on this proposal. Please contact me if you have any questions.

This message was sent from my PDA. If you need to speak to me right away in reference to this you can reach me at 518 269 8204.

Andrew X. Feeney
First Deputy Director
NYS Emergency Management Office
518 292 2305

000025



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
Four Tower Place
Albany, New York 12203-3764
<http://criminaljustice.state.ny.us>

DENISE E. O'DONNELL
COMMISSIONER

GINA L. BIANCHI
DEPUTY COMMISSIONER
AND COUNSEL
(518) 457-4181

March 5, 2007

Honorable David Nocenti
Counsel to the Governor
Executive Chamber
State Capitol
Albany, NY 12224

Via E-mail

RE: Assembly Bill Number 4697
No Position

Dear Mr. Nocenti:

This is in response to your request for comment on the above-referenced proposal which would amend the General Municipal Law, the Retirement and Social Security Law and the Administrative Code of the City of New York with regard to an accidental death benefit related to the terrorist attack on September 11, 2001.

According to the sponsor's memorandum in support, the purpose of the bill is to make technical and clarifying amendments to Chapter 445 of the Laws of 2006, which provided an accidental death benefit to certain beneficiaries of governmental World Trade Center responders who, in the performance and discharge of duty, were exposed to toxic substances in the aftermath of the terrorist attack on September 11, 2001.

This bill will not have an impact on the operations of the Division. Accordingly, the Division of Criminal Justice Services takes **no position** on Assembly Bill Number 4697.

Thank you for the opportunity to comment on this proposal.

Very truly yours,

Gina L. Bianchi
Deputy Commissioner and Counsel



New York State Sheriffs' Association, Inc.

27 Elk Street, Albany, New York 12207
Phone: (518) 434-9091 Fax: (518) 434-9093
E-mail: sheriff@nysheriffs.org

Peter Kehoe, Executive Director
Thomas A. Mitchell, Counsel

OFFICERS

Reuel Todd, President
Oswego County
Michael Amato, 1st V.P.
Montgomery County
Gary Maha, 2nd V.P.
Genesee County
Richard Tweddell, 3rd V.P.
Steuben County
Thomas Beilein, Secretary
Niagara County
Carl DuBois, Treasurer
Orange County
Patrick O'Flynn, Sgt. at Arms
Monroe County

EXECUTIVE COMMITTEE

John M. York, Chairman
Livingston County
Thomas Loughren, Vice-Chairman
Chenango County
Joseph Gerace
Chautauqua County

John Burns
Jefferson County
Dan Middaugh
Oneida County
Kevin Walsh
Onondaga County
Philip Povero
Ontario County

TRUSTEES

Ronald I. Cary
Mason County
Leo Connolly
Seneca County
Richard Pisciotti
Wayne County

LEGISLATIVE COMMITTEE

James Kraik, Chairman
Rockland County
David Harder, Vice Chairman
Broome County
James Campbell
Albany County
Dennis John
Cattaraugus County
Christopher Moss
Chemung County
David Harrison, Jr.
Columbia County
Thomas Mills
Delaware County
Adrian Anderson
Dutchess County
Timothy Howard
Erie County
Jack Pelkey
Franklin County
Thomas Lorey
Fulton County
Patrick O'Flynn
Monroe County
John T. Mahar
Rensselaer County
John S. Bates, Jr.
Scholarie County
Vincent DeMarco
Suffolk County
Michael Schiff
Sullivan County
Larry Cleveland
Warren County
Farris Heimann
Wyoming County

March 13, 2007

Hon. David Nocenti, Esq.
Counsel to the Governor
Executive Chambers
Albany, NY

Re: A 4697

Dear Mr. Nocenti:

Thank you for your recent communication seeking our input on this bill, which has passed both houses of the Legislature and is before Governor Spitzer for his action.

This bill makes some changes to existing law in order to clarify who is entitled to accidental death benefits, with respect to officers who responded to the terrorist attack on the World Trade Center on September 11, 2001. Many Sheriffs and their deputies from around the State proudly participated in efforts to rescue and recover victims at the Trade Center. We are not aware of any Sheriffs or deputies who would receive benefits under this bill, but strongly support all efforts to properly recognize and compensate all those heroic first responders who risked their own lives and health to assist the victims and their families affected by the terrorist attack.

Accordingly, we support this legislation.

We thank you for the opportunity to share our thoughts on this and other legislation. Please call on us at any time if you have any questions about these bills.

Very truly yours,

THOMAS A. MITCHELL

000027



NEW YORK STATE ASSOCIATION OF P.B.A.'s

Formerly known as Metropolitan Police Conference

Albany Office - 111 Washington Avenue, Room 406, Albany, NY 12210-2207 / 518-465-1141 / Fax 518-465-3048
Suffolk County Office - 868 Church St. Suite 1, Bohemia, NY 11716-5040 / 631-563-4200 / Fax 631-563-4204
Administrative Office - 23 Reynolds Road, Glen Cove, NY 11542 / 516-609-2732 / Fax 516-676-3956

Jeff Frayler
President
Suffolk County PBA

Gus Danese
1st Vice President
Port Authority PBA

William Diebold
2nd Vice President
Lynbrook PBA

Patrick Hall
Treasurer
Glen Cove PBA

Raymond Gimmler
Recording Secretary
MTA PBA

Thomas Willdigg
Sergeant at Arms
Nassau County DAI

Gary Dela Raba
Corresponding Secretary
Nassau County PBA

Michael Axelrod
General Counsel
East Meadow, New York

McEnerney, Brady & Co.
Certified Public Accountants
Yonkers, New York

Legislative Committee

Bing Markee
Legislative Director / Chairman

Nicholas Ewen
Nassau County Detectives

Chris Heimgartner
NYC LBA

Brian Hoegl
Nassau County SOA

James Hughes
Suffolk County Detectives

Lou Matarazzo
NYC DEA/CEA

Tim Morris
Suffolk County SOA

Michael O'Meara
MTA PBA

Peter Paterson
Nassau County PBA

Frederick A. Sales
Suffolk County PBA

Gordie Warnock
NYS Troopers PBA

MEMORANDUM IN SUPPORT

An act to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York in relation to an accidental death benefit related to the terrorist attack on September 11, 2001, and making technical corrections to such laws and code.

S 2509 - Introduced by Senator Golden
A 4697 - Introduced by Member of the Assembly Silver

The New York State Association of PBA's, Inc., an organization comprising more than fifty member units representing more than 40,000 police officers in New York State strongly supports this legislation which seeks to provide an accidental death benefit related to the terrorist attack on September 11, 2001 and make technical corrections to certain provisions of law related thereto.

This legislation would amend several provisions of the general municipal law, the retirement and social security law and the administrative code of the city of New York in relation to an accidental death benefit related to the terrorist attack on September 11, 2001, and making technical corrections to such laws and code.

This legislation would clarify the benefits provided by Chapter 445 of the laws of 2006 related to active and retired members dying as the result of a member's participation in the World Trade Center rescue, recovery or clean-up operations.

The proposal does not add any new benefit, nor ease the requirements for eligibility as otherwise enunciated by Chapter 445 of the laws of 2006. The proposal makes technical corrections to the law which will simplify the process, making it easier to understand and apply for the benefit before the respective retirement systems. As a consequence, no additional costs are attributed to this legislation even though it would go into effect retroactively in the same manner as Chapter 445 of the laws of 2006.

On behalf of our active and retired members, many of whom participated in the World Trade Center rescue, recovery and clean-up operations, we urge your support in enacting this legislation into law.

Respectfully submitted,

Bing Markee
Legislative Director/Chairman

Jeff Frayler
President

1871942-1



**NEW YORK STATE ASSOCIATION
OF PBA'S INC.
111 WASHINGTON AVE, SUITE 406
ALBANY, NEW YORK 12210-2207
TEL: 518-465-1141-FAX 518-465-3048**

FROM: MARGARET M. WESLEY

TO: Jean

DATE: 3-7-07 **NUMBER OF PAGES:** (2)

MEMO: Support Memo A4697

*Thank you
marge*

**F/K/A: METROPOLITAN POLICE CONFERENCE OF
NEW YORK STATE INC.**

FIREMEN'S ASSOCIATION OF THE STATE OF NEW YORK
Representing the Volunteer Fire Service, both active and exempt, since 1872

March 5, 2007

A 4697

AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and codes

Thank you for the opportunity to comment. FASNY (Firemen's Association of the State of New York) represents more than 130,000 volunteer firefighters and EMS responders. Volunteers currently enjoy an accidental death benefit. This bill would not impact volunteers. The extension of the benefit to beneficiaries of those serving in the aftermath of 911 is an act worthy of those responders who served in that most difficult time.

000030



LMDC
Remember Rebuild Renew

Lower Manhattan Development Corp.
One Liberty Plaza, 20th Floor, New York, NY 10006
Tel: 212.962.2300 Fax: 212.962.2431 TTY: 212.962.0045
www.RenewNYC.com

March 7, 2007

Via E-mail: legislative.secretary@chamber.state.ny.us

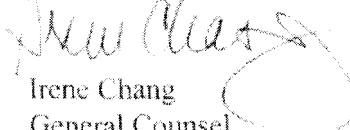
New York State Executive Chamber
Albany, New York

Re: Bill No. a4697

Dear Secretary:

Thank you for seeking the comments of the Lower Manhattan Development Corporation ("LMDC") on the above-referenced bill pending in the New York State Legislature. LMDC has no comments on the bill.

Very truly yours,


Irene Chang
General Counsel

000031



Law Enforcement Officers Union, Council 82

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

HOLLIS V. CHASE BUILDING

63 COLVIN AVENUE, ALBANY, NY 12206

(518) 489-8424 (518) 435-1523 FAX

www.council82.org • c82@council82.org

March 8, 2007

David Nocenti
Counsel to the Governor
Executive Chamber
New York State Capitol
Albany, New York 12224

Re: A4697/S2509

Dear Mr. Nocenti:

The Law Enforcement Officers Union, Council 82, AFSCME, represents law enforcement officers across New York State. This legislation would amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code.

By clarifying the legislative intent of the parent chapter, this bill will more clearly define the entitlement of an accidental death benefit to beneficiaries of governmental responders who, in the performance and discharge of duty, were exposed to toxic substances. In the aftermath of the terrorist attack on September 11, 2001 and who, have met the eligibility requirements pursuant to Chapter 104 of the laws of 2005.

We ask the Governor to sign this legislation.

Respectively,

James F. Lyman
President

000032

UNIFORMED
FIRE DEPARTMENT, CITY OF NEW YORK
FIRE OFFICERS
LOCAL 854, INTERNATIONAL ASSN. OF FIREFIGHTERS, AFL-CIO
ASSOCIATION

225 BROADWAY * NEW YORK, N. Y. 10007 * SUITE 401
TEL: (212) 293 - 9300 * FAX: (212) 292 - 1560

March 7, 2007

Hon. Eliot Spitzer
Governor, State of New York
Executive Chamber
State Capitol
Albany, New York 12224

Dear Governor Spitzer:

IN SUPPORT OF A.4697

The Uniformed Fire Officers Association represents 2,500 Lieutenants, Captains, Battalion Chiefs, Deputy Chiefs, Supervising Fire Marshals and Medical Officers of the New York City Fire Department. We would be deeply appreciative if you signed legislation that corrects an error that was made in the original bill to provide death benefits for first responders to the World Trade Center disaster in September, 2001.

The thanks of all our members and their families go to all of the members of the Senate and the Assembly, and to two Governors who have kept their faith with those who sacrificed so much. Thank you.

Sincerely,



Peter L. Gorman
President

John B. Dunne
Legislative Representative



— AFFILIATED WITH —

NEW YORK STATE AFL-CIO
NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO * MARITIME PORT COUNCIL OF
GREATER NEW YORK & VICINITY * UNION LABEL & SERVICE TRADES COUNCIL OF
GREATER NEW YORK & LONG ISLAND * NATIONAL SAFETY COUNCIL

000033



nyspffa@aol.com
03/07/2007 04:47 PM

To Legislative.Secretary@chamber.state.ny.us
cc
bcc
Subject A-4697

The New York State Professional Fire Fighters is in favor of this bill. No additional comments.

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com

000034



POLICE CONFERENCE OF NEW YORK, INC.

Union of Police Officers

Founded in 1925

Executive Offices: 112 State Street - Suite 1120, Albany, New York 12207

Tel. (518) 463-3283

FAX. (518) 463-2488

Check out our web site: www.pcny.org

March 8, 2007

The Honorable David Nocenti
Counsel to the Governor of the State of NY
Executive Chamber
State Capitol
Albany, NY 12224

MEMO IN SUPPORT – A4697 (Silver) / S2509 (Golden)

AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code

Dear Mr. Nocenti:

The Police Conference of New York, Inc., a highly regarded statewide organization that represents the interests of 220 police associations, 7 regional conferences and one retired police association, with a total membership of over 25,000.

PCNY supports A4697, which makes technical and clarifying amendments to Chapter 445 of the Laws of 2006, a bill, which amends existing law by entitling an accidental death benefit related to terrorist attack on September 11, 2001.

On behalf of the members of the Police Conference, whose members strongly support this legislation, we urge the Governor's consideration in signing it into law.

Edward W. Guzdek, President

EWG/vg

000035

STATE OF NEW YORK

4697

2007-2008 Regular Sessions

IN ASSEMBLY

February 5, 2007

Introduced by M. of A. SILVER, ABBATE, JOHN, FARRELL, TEDISCO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the general municipal law, the retirement and social security law and the administrative code of the city of New York, in relation to an accidental death benefit related to the terrorist attack on September 11, 2001 and making technical corrections to such laws and code

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

1 Section 1. Subdivision h of section 208-f of the general municipal
2 law, as added by chapter 445 of the laws of 2006, is amended to read as
3 follows:
4 h. Notwithstanding any other provision of law, if **(i)** a member of a
5 pension or retirement system [~~of (i)~~] **covering** a police department or
6 paid fire department of a city, town or village; (ii) a **member of a**
7 **pension or retirement system covering the** uniformed corrections force of
8 the New York city department of corrections; (iii) a **member of a pension**
9 **or retirement system covering a** county sheriff's department (outside of
10 the city of New York); (iv) a deputy [~~sheriffs of the city of New York~~]
11 **sheriff member of the New York city employees' retirement system;** (v) a
12 **member of the New York city employees' retirement system who is** an
13 employee of the city of New York or the New York city health and hospi-
14 tals corporation in a title whose duties are those of an emergency
15 medical technician or advanced emergency medical technician (as those
16 terms are defined in section three thousand one of the public health
17 law), or in a title whose duties require the supervision of employees
18 whose duties are those of an emergency medical technician or advanced
19 emergency medical technician (as those terms are defined in section
20 three thousand one of the public health law); (vi) a bridge and tunnel
21 member of the New York city employees' retirement system, who [~~(A)~~]
22 ~~participated in the rescue, recovery, or clean up operations at the~~

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

LBD02360-05-7

A. 4697

2

1 ~~World Trade Center site between September eleventh, two thousand one and~~
2 ~~September twelfth, two thousand two, or (D) worked at the Fresh Kille~~
3 ~~Land Fill in New York between September eleventh, two thousand one and~~
4 ~~September twelfth, two thousand two, or (C) worked at the New York city~~
5 ~~morgue or the temporary morgue on pier locations on the west side of~~
6 ~~Manhattan between September eleventh, two thousand one and September~~
7 ~~twelfth, two thousand two, or (D) manned the barges between the west~~
8 ~~side of Manhattan and the Fresh Kille Land Fill in New York between~~
9 ~~September eleventh, two thousand one and September twelfth, two thousand~~
10 ~~two, and it is determined by the comptroller or applicable medical~~
11 ~~board, that such member's death resulted from a disease enumerated in~~
12 ~~subparagraph c of paragraph one of subdivision g of section sixty-three,~~
13 ~~subdivision g of section five hundred seven, subdivision h of section~~
14 ~~six hundred five, subdivision d of section six hundred five-b, subdivi-~~
15 ~~sion b of section six hundred five-c, subdivision e of section six~~
16 ~~hundred seven-b or section five hundred seven-c of the retirement and~~
17 ~~social security law or section 13-168, 13-252.1 or 13-353.1 of the~~
18 ~~administrative code of the city of New York then, unless the contrary be~~
19 ~~proven by competent evidence, such member]: (1) has met the criteria of~~
20 ~~subdivision g of section sixty-three of the retirement and social secu-~~
21 ~~rity law, subdivision g of section three hundred sixty-three of the~~
22 ~~retirement and social security law, subdivision h of section three~~
23 ~~hundred sixty-three-bb of the retirement and social security law, subdivi-~~
24 ~~vision q of section five hundred seven of the retirement and social~~
25 ~~security law, subdivision c of section five hundred seven-c of the~~
26 ~~retirement and social security law, subdivision h of section five~~
27 ~~hundred fifty-six of the retirement and social security law, subdivision~~
28 ~~h of section six hundred five of the retirement and social security law,~~
29 ~~subdivision h of section six hundred five-a of the retirement and social~~
30 ~~security law, subdivision d of section six hundred five-b of the retire-~~
31 ~~ment and social security law as added by chapter five hundred four of~~
32 ~~the laws of two thousand two, subdivision b of section six hundred~~
33 ~~five-c of the retirement and social security law, subdivision c of~~
34 ~~section six hundred seven-b of the retirement and social security law,~~
35 ~~subdivision one of section 13-252.1 of the administrative code of the~~
36 ~~city of New York, subdivision one of section 13-353.1 of the administra-~~
37 ~~tive code of the city of New York, or subdivision b of section 13-168 of~~
38 ~~the administrative code of the city of New York; and (2) dies in active~~
39 ~~service from a qualifying condition or impairment of health, as defined~~
40 ~~in each of the foregoing subdivisions, that is determined by the appli-~~
41 ~~cable head of the retirement system or applicable medical board to have~~
42 ~~been caused by such member's participation in the World Trade Center~~
43 ~~rescue, recovery or cleanup operations, then unless the contrary be~~
44 ~~proven by competent evidence, such member shall be deemed to have died~~
45 ~~as a natural and proximate result of an accident sustained in the~~
46 ~~performance of duty and not as a result of willful negligence on his or~~
47 ~~her part. Upon such determination, the eligible beneficiary of such~~
48 ~~member, as defined in either section sixty-one, five hundred one or six~~
49 ~~hundred one of the retirement and social security law, section 13-149,~~
50 ~~13-244 or 13-347 of the administrative code of the city of New York~~
51 ~~shall be entitled to [an] a special accidental death benefit [based upon~~
52 ~~a presumption that such death was incurred in the performance and~~
53 ~~discharge of duty as the natural and proximate result of an accident not~~
54 ~~caused by such member's own willful negligence. For the purposes of this~~
55 ~~subdivision, "World Trade Center site" shall mean anywhere below a line~~
56 ~~starting from the Hudson River and Canal Street, east on Canal Street to~~

A. 4697

3

1 ~~Pike Street, south on Pike Street to the East River, and extending to~~
2 ~~the lower tip of Manhattan]~~ as provided by this section, payable in
3 accordance with subdivisions b, c and d of this section.

4 § 2. Section 208-f of the general municipal law is amended by adding a
5 new subdivision i to read as follows:

6 i. Notwithstanding any other provision of law, if (i) a retiree of a
7 pension or retirement system covering a police department or paid fire
8 department of a city, town or village; (ii) a retiree of a pension or
9 retirement system covering the uniformed corrections force of the New
10 York city department of corrections; (iii) a retiree of a pension or
11 retirement system covering a county sheriff's department (outside of the
12 city of New York); (iv) a retired deputy sheriff member of the New York
13 city employees' retirement system; (v) a retired member of the New York
14 city employees' retirement system who was an employee of the city of New
15 York or the New York city health and hospitals corporation in a title
16 whose duties are those of an emergency medical technician or advanced
17 emergency medical technician (as those terms are defined in section
18 three thousand one of the public health law) or in a title whose duties
19 require the supervision of employees whose duties are those of an emer-
20 gency medical technician or advanced emergency medical technician (as
21 those terms are defined in section three thousand one of the public
22 health law); or (vi) a retired bridge and tunnel member of the New York
23 city employees' retirement system, who: (1) has met the criteria of
24 subdivision g of section sixty-three of the retirement and social secu-
25 rity law, subdivision g of section three hundred sixty-three of the
26 retirement and social security law, subdivision h of section three
27 hundred sixty-three-bb of the retirement and social security law, subdivi-
28 sion g of section five hundred seven of the retirement and social
29 security law, subdivision c of section five hundred seven-c of the
30 retirement and social security law, subdivision h of section five
31 hundred fifty-six of the retirement and social security law, subdivision
32 h of section six hundred five of the retirement and social security law,
33 subdivision h of section six hundred five-a of the retirement and social
34 security law, subdivision d of section six hundred five-b of the retire-
35 ment and social security law as added by chapter five hundred four of
36 the laws of two thousand two, subdivision b of section six hundred
37 five-c of the retirement and social security law, subdivision c of
38 section six hundred seven-b of the retirement and social security law,
39 subdivision one of section 13-252.1 of the administrative code of the
40 city of New York, subdivision one of section 13-353.1 of the administra-
41 tive code of the city of New York, or subdivision b of section 13-168 of
42 the administrative code of the city of New York, or would have met the
43 criteria if not already retired on an accidental disability; and (2) has
44 not been retired for more than twenty-five years; and (3) dies from a
45 qualifying condition or impairment of health, as defined in each of the
46 foregoing subdivisions, that is determined by the applicable head of the
47 retirement system or applicable medical board to have been caused by
48 such retiree's participation in the World Trade Center rescue, recovery
49 or cleanup operations, then unless the contrary be proven by competent
50 evidence, such retiree shall be deemed to have died as a natural and
51 proximate result of an accident sustained in the performance of duty and
52 not as a result of willful negligence on his or her part. Upon such
53 determination, the eligible beneficiary of such retiree, as defined in
54 either section sixty-one, five hundred one or six hundred one of the
55 retirement and social security law or section 13-149, 13-244, or 13-347
56 of the administrative code of the city of New York shall be entitled to

A. 4697

4

1 a special accidental death benefit as provided by this section, payable
2 in accordance with subdivisions b, c and d of this section, however, for
3 the purposes of determining the salary base upon which the special acci-
4 idental death benefit is calculated, the retiree shall be deemed to have
5 died on the date of his or her retirement. In no event shall the special
6 accidental death benefit be paid unless a written application is made by
7 the eligible beneficiary of such retiree to the head of the applicable
8 retirement system requesting conversion of the retiree's service or
9 disability benefit to an accidental death benefit and upon the approval
10 of said application. At the time of such conversion, the eligible bene-
11 ficiary shall relinquish all rights to the prospective benefits under
12 the service or disability retirement benefit, including any post-retire-
13 ment death benefits, since the retiree's death. If the eligible benefi-
14 ciary is not the only beneficiary receiving or entitled to receive a
15 benefit under the service or disability retirement benefit (including,
16 but not limited to, post-retirement death benefits or benefits paid or
17 payable pursuant to the retiree's option selection), the special acci-
18 idental death benefit payments to the eligible beneficiary will be
19 reduced by any amounts paid or payable to any other beneficiary.

20 § 3. Subdivision h of section 63 of the retirement and social security
21 law, as added by chapter 445 of the laws of 2006, is amended to read as
22 follows:

23 h. Notwithstanding any other provision of this chapter or of any
24 general, special or local law, charter, administrative code or rule or
25 regulation to the contrary, if a retiree[~~, who at the time of death has~~
26 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
27 criteria of subdivision g of this section and retired on a service or
28 disability retirement, or would have met the criteria if not already
29 retired on an accidental disability[~~, and it is determined by the comp-~~
30 ~~troller that such retiree's death resulted from a disease enumerated in~~
31 ~~subparagraph (e) of paragraph one of subdivision g of this section, then~~
32 ~~such~~]; and (2) has not been retired for more than twenty-five years; and
33 (3) dies from a qualifying condition or impairment of health, as defined
34 in subparagraph (c) of paragraph one of subdivision g of this section,
35 that is determined by the applicable head of the retirement system or
36 applicable medical board to have been caused by such retiree's partic-
37 ipation in the World Trade Center rescue, recovery or cleanup oper-
38 ations, as defined in subparagraph (d) of paragraph one of subdivision g
39 of this section, then unless the contrary be proven by competent
40 evidence, such retiree shall be deemed to have died as a natural and
41 proximate result of an accident sustained in the performance of duty and
42 not as a result of willful negligence on his or her part. Such
43 retiree's eligible beneficiary, as set forth in section sixty-one of
44 this title, shall be entitled to an accidental death benefit as provided
45 by section sixty-one of this title, however, for the purposes of deter-
46 mining the salary base upon which the accidental death benefit is calcu-
47 lated, the retiree shall be deemed to have died on the date of his or
48 her retirement. Upon the retiree's death, the eligible beneficiary[~~, as~~
49 ~~set forth in section sixty-one of this title,~~] shall make a written
50 application to the head of the retirement system within the time for
51 filing an application for an accidental death benefit as set forth in
52 section sixty-one of this title requesting conversion of such retiree's
53 service or disability retirement benefit to an accidental death benefit.
54 At the time of such conversion, the eligible beneficiary shall relin-
55 quish all rights to the prospective benefits payable under the service
56 or disability retirement benefit, including any post-retirement death

A. 4697

5

1 benefits, since the retiree's death. If the eligible beneficiary is not
2 the only beneficiary receiving or entitled to receive a benefit under
3 the service or disability retirement benefit (including, but not limited
4 to, post-retirement death benefits or benefits paid or payable pursuant
5 to the retiree's option selection), the accidental death benefit
6 payments to the eligible beneficiary will be reduced by any amounts paid
7 or payable to any other beneficiary.

8 § 4. Section 63 of the retirement and social security law is amended
9 by adding a new subdivision i to read as follows:

10 i. Notwithstanding any other provision of this chapter or of any
11 general, special or local law, charter, administrative code or rule or
12 regulation to the contrary, if a member who: (1) has met the criteria of
13 subdivision g of this section; and (2) dies in active service from a
14 qualifying condition or impairment of health, as defined in subparagraph
15 (c) of paragraph one of subdivision g of this section, that is deter-
16 mined by the applicable head of the retirement system or applicable
17 medical board to have been caused by such member's participation in the
18 World Trade Center rescue, recovery or cleanup operations, as defined in
19 subparagraph (d) of paragraph one of subdivision g of this section, then
20 unless the contrary be proven by competent evidence, such member shall
21 be deemed to have died as a natural and proximate result of an accident
22 sustained in the performance of duty and not as a result of willful
23 negligence on his or her part. Such member's eligible beneficiary, as
24 set forth in section sixty-one of this title, shall be entitled to an
25 accidental death benefit provided he or she makes written application to
26 the head of the retirement system within the time for filing an applica-
27 tion for an accidental death benefit as set forth in section sixty-one
28 of this title.

29 § 5. Subdivision h of section 363 of the retirement and social securi-
30 ty law, as added by chapter 445 of the laws of 2006, is amended to read
31 as follows:

32 h. Notwithstanding any other provision of this chapter or of any
33 general, special or local law, charter, administrative code or rule or
34 regulation to the contrary, if a retiree~~[, who at the time of death has~~
35 ~~not been retired for more than twenty-five years,~~ who: (1) has met the
36 criteria of subdivision g of this section and retired on a service or
37 disability retirement, or would have met the criteria if not already
38 retired on an accidental disability~~[, and it is determined by the comp-~~
39 ~~troller that such retiree's death resulted from a disease enumerated in~~
40 ~~subparagraph (c) of paragraph one of subdivision g of this section, then~~
41 ~~such]; and (2) has not been retired for more than twenty-five years; and~~
42 ~~(3) dies from a qualifying condition or impairment of health, as defined~~
43 ~~in subparagraph (c) of paragraph one of subdivision g of this section,~~
44 ~~that is determined by the applicable head of the retirement system or~~
45 ~~applicable medical board to have been caused by such retiree's partic-~~
46 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
47 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision g~~
48 ~~of this section, then unless the contrary be proven by competent~~
49 ~~evidence, such retiree shall be deemed to have died as a natural and~~
50 ~~proximate result of an accident sustained in the performance of duty and~~
51 ~~not as a result of willful negligence on his or her part. Such~~
52 ~~retiree's eligible beneficiary, as set forth in section three hundred~~
53 ~~sixty-one of this title, shall be entitled to an accidental death bene-~~
54 ~~fit as provided by section three hundred sixty-one of this title, howev-~~
55 ~~er, for the purposes of determining the salary base upon which the acci-~~
56 ~~idental death benefit is calculated, the retiree shall be deemed to have~~

A. 4697

6

1 died on the date of his or her retirement. Upon the retiree's death, the
2 eligible beneficiary[~~, as set forth in section three hundred sixty-one~~
3 ~~of this title,~~] shall make a written application to the head of the
4 retirement system within the time for filing an application for an acci-
5 dental death benefit as set forth in section three hundred sixty-one of
6 this title requesting conversion of such retiree's service or disability
7 retirement benefit to an accidental death benefit. At the time of such
8 conversion, the eligible beneficiary shall relinquish all rights to the
9 prospective benefits payable under the service or disability retirement
10 benefit, including any post-retirement death benefits, since the
11 retiree's death. If the eligible beneficiary is not the only beneficiary
12 receiving or entitled to receive a benefit under the service or disabil-
13 ity retirement benefit (including, but not limited to, post-retirement
14 death benefits or benefits paid or payable pursuant to the retiree's
15 option selection), the accidental death benefit payments to the eligible
16 beneficiary will be reduced by any amounts paid or payable to any other
17 beneficiary.

18 § 6. Section 363 of the retirement and social security law is amended
19 by adding a new subdivision i to read as follows:

20 i. Notwithstanding any other provision of this chapter or of any
21 general, special or local law, charter, administrative code or rule or
22 regulation to the contrary, if a member who: (1) has met the criteria of
23 subdivision g of this section; and (2) dies in active service from a
24 qualifying condition or impairment of health, as defined in subparagraph
25 (c) of paragraph one of subdivision g of this section, that is deter-
26 mined by the applicable head of the retirement system or applicable
27 medical board to have been caused by such member's participation in the
28 World Trade Center rescue, recovery or cleanup operations, as defined in
29 subparagraph (d) of paragraph one of subdivision g of this section, then
30 unless the contrary be proven by competent evidence, such member shall
31 be deemed to have died as a natural and proximate result of an accident
32 sustained in the performance of duty and not as a result of willful
33 negligence on his or her part. Such member's eligible beneficiary, as
34 set forth in section three hundred sixty-one of this title, shall be
35 entitled to an accidental death benefit provided he or she makes written
36 application to the head of the retirement system within the time for
37 filing an application for an accidental death benefit as set forth in
38 section three hundred sixty-one of this title.

39 § 7. Subdivision i of section 363-bb of the retirement and social
40 security law, as added by chapter 445 of the laws of 2006, is amended to
41 read as follows:

42 i. Notwithstanding any other provision of this chapter or of any
43 general, special or local law, charter, administrative code or rule or
44 regulation to the contrary, if a retiree[~~, who at the time of death has~~
45 ~~not been retired for more than twenty-five years,]~~ who: (1) has met the
46 criteria of subdivision h of this section and retired on a service or
47 disability retirement, or would have met the criteria if not already
48 retired on an accidental disability[~~, and it is determined by the comp-~~
49 ~~troller that such retiree's death resulted from a disease enumerated in~~
50 ~~subparagraph (e) of paragraph one of subdivision h of this section, then~~
51 ~~such]; and (2) has not been retired for more than twenty-five years; and~~
52 ~~(3) dies from a qualifying condition or impairment of health, as defined~~
53 ~~in subparagraph (c) of paragraph one of subdivision h of this section,~~
54 ~~that is determined by the applicable head of the retirement system or~~
55 ~~applicable medical board to have been caused by such retiree's partic-~~
56 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~

A. 4697

7

1 ations, as defined in subparagraph (d) of paragraph one of subdivision h
2 of this section, then unless the contrary be proven by competent
3 evidence, such retiree shall be deemed to have died as a natural and
4 proximate result of an accident sustained in the performance of duty and
5 not as a result of willful negligence on his or her part. Such
6 retiree's eligible beneficiary, as set forth in section three hundred
7 sixty-one of this title, shall be entitled to an accidental death bene-
8 fit as provided by section three hundred sixty-one of this title, howev-
9 er, for the purposes of determining the salary base upon which the acci-
10 dental death benefit is calculated, the retiree shall be deemed to have
11 died on the date of his or her retirement. Upon the retiree's death,
12 the eligible beneficiary[~~, as set forth in section three hundred sixty-~~
13 ~~one of this title,~~] shall make a written application to the head of the
14 retirement system within the time for filing an application for an acci-
15 dental death benefit as set forth in section three hundred sixty-one of
16 this title requesting conversion of such retiree's service or disability
17 retirement benefit to an accidental death benefit. At the time of such
18 conversion, the eligible beneficiary shall relinquish all rights to the
19 prospective benefits payable under the service or disability retirement
20 benefit, including any post-retirement death benefits, since the
21 retiree's death. If the eligible beneficiary is not the only beneficiary
22 receiving or entitled to receive a benefit under the service or disabili-
23 ty retirement benefit (including, but not limited to, post-retirement
24 death benefits or benefits paid or payable pursuant to the retiree's
25 option selection), the accidental death benefit payments to the eligible
26 beneficiary will be reduced by any amounts paid or payable to any other
27 beneficiary.

28 § 8. Section 363-bb of the retirement and social security law is
29 amended by adding a new subdivision j to read as follows:

30 j. Notwithstanding any other provision of this chapter or of any
31 general, special or local law, charter, administrative code or rule or
32 regulation to the contrary, if a member who: (1) has met the criteria of
33 subdivision h of this section; and (2) dies in active service from a
34 qualifying condition or impairment of health, as defined in subparagraph
35 (c) of paragraph one of subdivision h of this section, that is deter-
36 mined by the applicable head of the retirement system or applicable
37 medical board to have been caused by such member's participation in the
38 World Trade Center rescue, recovery or cleanup operations, as defined in
39 subparagraph (d) of paragraph one of subdivision h of this section, then
40 unless the contrary be proven by competent evidence, such member shall
41 be deemed to have died as a natural and proximate result of an accident
42 sustained in the performance of duty and not as a result of willful
43 negligence on his or her part. Such member's eligible beneficiary, as
44 set forth in section three hundred sixty-one of this title, shall be
45 entitled to an accidental death benefit provided he or she makes written
46 application to the head of the retirement system within the time for
47 filing an application for an accidental death benefit as set forth in
48 section three hundred sixty-one of this title.

49 § 9. Subdivision h of section 507 of the retirement and social securi-
50 ty law, as added by chapter 445 of the laws of 2006, is amended and a
51 new subdivision i is added to read as follows:

52 h. Notwithstanding any other provision of this chapter or of any
53 general, special or local law, charter, administrative code or rule or
54 regulation to the contrary, if a retiree[~~, who at the time of death has~~
55 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
56 criteria of subdivision g of this section and retired on a service or

A. 4697

8

1 disability retirement, or would have met the criteria if not already
2 retired on an accidental disability[, and it is determined by the comp-
3 troller or the applicable medical board that such retiree's death
4 resulted from a disease enumerated in subparagraph (c) of paragraph one
5 of subdivision g of this section, then such]; and (2) has not been
6 retired for more than twenty-five years; and (3) dies from a qualifying
7 condition or impairment of health, as defined in subparagraph (c) of
8 paragraph one of subdivision g of this section, that is determined by
9 the applicable head of the retirement system or applicable medical board
10 to have been caused by such retiree's participation in the World Trade
11 Center rescue, recovery or cleanup operations, as defined in subpara-
12 graph (d) of paragraph one of subdivision g of this section, then unless
13 the contrary be proven by competent evidence, such retiree shall be
14 deemed to have died as a natural and proximate result of an accident
15 sustained in the performance of duty and not as a result of willful
16 negligence on his or her part. Such retiree's eligible beneficiary, as
17 set forth in section five hundred one of this article, shall be entitled
18 to an accidental death benefit as provided by section five hundred nine
19 of this article, however, for the purposes of determining the salary
20 base upon which the accidental death benefit is calculated, the retiree
21 shall be deemed to have died on the date of his or her retirement. Upon
22 the retiree's death, the eligible beneficiary[, as set forth in section
23 five hundred nine of this article,] shall make a written application to
24 the head of the retirement system within the time for filing an applica-
25 tion for an accidental death benefit as set forth in section five
26 hundred nine of this article requesting conversion of such retiree's
27 service or disability retirement benefit to an accidental death benefit.
28 At the time of such conversion, the eligible beneficiary shall relin-
29 quish all rights to the prospective benefits payable under the service
30 or disability retirement benefit, including any post-retirement death
31 benefits, since the retiree's death. If the eligible beneficiary is not
32 the only beneficiary receiving or entitled to receive a benefit under
33 the service or disability retirement benefit (including, but not limited
34 to, post-retirement death benefits or benefits paid or payable pursuant
35 to the retiree's option selection), the accidental death benefit
36 payments to the eligible beneficiary will be reduced by any amounts paid
37 or payable to any other beneficiary.

38 i. Notwithstanding any other provision of this chapter or of any
39 general, special or local law, charter, administrative code or rule or
40 regulation to the contrary, if a member who: (1) has met the criteria of
41 subdivision g of this section; and (2) dies in active service from a
42 qualifying condition or impairment of health, as defined in subparagraph
43 (c) of paragraph one of subdivision g of this section, that is deter-
44 mined by the applicable head of the retirement system or applicable
45 medical board to have been caused by such member's participation in the
46 World Trade Center rescue, recovery or cleanup operations, as defined in
47 subparagraph (d) of paragraph one of subdivision g of this section, then
48 unless the contrary be proven by competent evidence, such member shall
49 be deemed to have died as a natural and proximate result of an accident
50 sustained in the performance of duty and not as a result of willful
51 negligence on his or her part. Such member's eligible beneficiary, as
52 set forth in section five hundred one of this article, shall be entitled
53 to an accidental death benefit provided he or she makes written applica-
54 tion to the head of the retirement system within the time for filing an
55 application for an accidental death benefit as set forth in section five
56 hundred nine of this article.

A. 4697

9

1 § 10. Subdivision i of section 556 of the retirement and social secu-
2 rity law, as added by chapter 445 of the laws of 2006, is amended and a
3 new subdivision j is added to read as follows:

4 i. Notwithstanding any other provision of this chapter or of any
5 general, special or local law, charter, administrative code or rule or
6 regulation to the contrary, if a retiree[~~, who at the time of death has~~
7 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
8 criteria of subdivision h of this section and retired on a service or
9 disability retirement, or would have met the criteria if not already
10 retired on an accidental disability[~~, and it is determined by the comp-~~
11 ~~troller or the applicable medical board that such retiree's death~~
12 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
13 ~~of subdivision h of this section, then such~~]; and (2) has not been
14 retired for more than twenty-five years; and (3) dies from a qualifying
15 condition or impairment of health, as defined in subparagraph (c) of
16 paragraph one of subdivision h of this section, that is determined by
17 the applicable head of the retirement system or applicable medical board
18 to have been caused by such retiree's participation in the World Trade
19 Center rescue, recovery or cleanup operations, as defined in subpara-
20 graph (d) of paragraph one of subdivision h of this section, then unless
21 the contrary be proven by competent evidence, such retiree shall be
22 deemed to have died as a natural and proximate result of an accident
23 sustained in the performance of duty and not as a result of willful
24 negligence on his or her part. Such retiree's eligible beneficiary, as
25 set forth in section five hundred one of this article, shall be entitled
26 to an accidental death benefit as provided by section [six hundred
27 ~~seven] five hundred nine of this [chapter] article, however, for the~~
28 purposes of determining the salary base upon which the accidental death
29 benefit is calculated, the retiree shall be deemed to have died on the
30 date of his or her retirement. Upon the retiree's death, the eligible
31 beneficiary[~~, as set forth in section six hundred seven of this chap-~~
32 ~~ter,~~] shall make a written application to the head of the retirement
33 system within the time for filing an application for an accidental death
34 benefit as set forth in section [~~six hundred seven] five hundred nine~~
35 of this [chapter] article requesting conversion of such retiree's service
36 or disability retirement benefit to an accidental death benefit. At the
37 time of such conversion, the eligible beneficiary shall relinquish all
38 rights to the prospective benefits payable under the service or disabili-
39 ty retirement benefit, including any post-retirement death benefits,
40 since the retiree's death. If the eligible beneficiary is not the only
41 beneficiary receiving or entitled to receive a benefit under the service
42 or disability retirement benefit (including, but not limited to, post-
43 retirement death benefits or benefits paid or payable pursuant to the
44 retiree's option selection), the accidental death benefit payments to
45 the eligible beneficiary will be reduced by any amounts paid or payable
46 to any other beneficiary.

47 j. Notwithstanding any other provision of this chapter or of any
48 general, special or local law, charter, administrative code or rule or
49 regulation to the contrary, if a member who: (1) has met the criteria of
50 subdivision h of this section; and (2) dies in active service from a
51 qualifying condition or impairment of health, as defined in subparagraph
52 (c) of paragraph one of subdivision h of this section, that is deter-
53 mined by the applicable head of the retirement system or applicable
54 medical board to have been caused by such member's participation in the
55 World Trade Center rescue, recovery or cleanup operations, as defined in
56 subparagraph (d) of paragraph one of subdivision h of this section, then

A. 4697

10

1 unless the contrary be proven by competent evidence, such member shall
2 be deemed to have died as a natural and proximate result of an accident
3 sustained in the performance of duty and not as a result of willful
4 negligence on his or her part. Such member's eligible beneficiary, as
5 set forth in section five hundred one of this article, shall be entitled
6 to an accidental death benefit provided he or she makes written applica-
7 tion to the head of the retirement system within the time for filing an
8 application for an accidental death benefit as set forth in section five
9 hundred nine of this article.

10 § 11. Subdivision i of section 605 of the retirement and social secu-
11 rity law, as added by chapter 445 of the laws of 2006, is amended to
12 read as follows:

13 i. Notwithstanding any other provision of this chapter or of any
14 general, special or local law, charter, administrative code or rule or
15 regulation to the contrary, if a retiree [~~who at the time of death has~~
16 ~~not been retired for more than twenty-five years,~~ who: (1) has met the
17 criteria of subdivision h of this section and retired on a service or
18 disability retirement, or would have met the criteria if not already
19 retired on an accidental disability [~~, and it is determined by the comp-~~
20 ~~troller or the applicable medical board that such retiree's death~~
21 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
22 ~~of subdivision h of this section, then such]; and (2) has not been
23 retired for more than twenty-five years; and (3) dies from a qualifying
24 condition or impairment of health, as defined in subparagraph (c) of
25 paragraph one of subdivision h of this section, that is determined by
26 the applicable head of the retirement system or applicable medical board
27 to have been caused by such retiree's participation in the World Trade
28 Center rescue, recovery or cleanup operations, as defined in subpara-
29 graph (d) of paragraph one of subdivision h of this section, then unless
30 the contrary be proven by competent evidence, such retiree shall be
31 deemed to have died as a natural and proximate result of an accident
32 sustained in the performance of duty and not as a result of willful
33 negligence on his or her part. Such retiree's eligible beneficiary, as
34 set forth in section six hundred one of this article, shall be entitled
35 to an accidental death benefit as provided by section six hundred seven
36 of this article, however, for the purposes of determining the salary
37 base upon which the accidental death benefit is calculated, the retiree
38 shall be deemed to have died on the date of his or her retirement. Upon
39 the retiree's death, the eligible beneficiary [~~, as set forth in section~~
40 ~~six hundred seven of this article,] shall make a written application to
41 the head of the retirement system within the time for filing an applica-
42 tion for an accidental death benefit as set forth in section six hundred
43 seven of this article requesting conversion of such retiree's service or
44 disability retirement benefit to an accidental death benefit. At the
45 time of such conversion, the eligible beneficiary shall relinquish all
46 rights to the prospective benefits payable under the service or disabil-
47 ity retirement benefit, including any post-retirement death benefits,
48 since the retiree's death. If the eligible beneficiary is not the only
49 beneficiary receiving or entitled to receive a benefit under the service
50 or disability retirement benefit (including, but not limited to, post-
51 retirement death benefits or benefits paid or payable pursuant to the
52 retiree's option selection), the accidental death benefit payments to
53 the eligible beneficiary will be reduced by any amounts paid or payable
54 to any other beneficiary.~~~~

55 § 12. Section 605 of the retirement and social security law is amended
56 by adding a new subdivision j to read as follows:

A. 4697

11

1 j. Notwithstanding any other provision of this chapter or of any
2 general, special or local law, charter, administrative code or rule or
3 regulation to the contrary, if a member who: (1) has met the criteria of
4 subdivision h of this section; and (2) dies in active service from a
5 qualifying condition or impairment of health, as defined in subparagraph
6 (c) of paragraph one of subdivision h of this section, that is deter-
7 mined by the applicable head of the retirement system or applicable
8 medical board to have been caused by such member's participation in the
9 World Trade Center rescue, recovery or cleanup operations, as defined in
10 subparagraph (d) of paragraph one of subdivision h of this section, then
11 unless the contrary be proven by competent evidence, such member shall
12 be deemed to have died as a natural and proximate result of an accident
13 sustained in the performance of duty and not as a result of willful
14 negligence on his or her part. Such member's eligible beneficiary, as
15 set forth in section six hundred one of this article, shall be entitled
16 to an accidental death benefit provided he or she makes written applica-
17 tion to the head of the retirement system within the time for filing an
18 application for an accidental death benefit as set forth in section six
19 hundred seven of this article.

20 § 13. Subdivision i of section 605-a of the retirement and social
21 security law, as added by chapter 445 of the laws of 2006, is amended to
22 read as follows:

23 i. Notwithstanding any other provision of this chapter or of any
24 general, special or local law, charter, administrative code or rule or
25 regulation to the contrary, if a retiree[~~, who at the time of death has~~
26 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
27 criteria of subdivision h of this section and retired on a service or
28 disability retirement, or would have met the criteria if not already
29 retired on an accidental disability[~~, and it is determined by the comp-~~
30 ~~troller or the applicable medical board that such retiree's death~~
31 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
32 ~~of subdivision h of this section, then such~~]; and (2) has not been
33 retired for more than twenty-five years; and (3) dies from a qualifying
34 condition or impairment of health, as defined in subparagraph (c) of
35 paragraph one of subdivision h of this section, that is determined by
36 the applicable head of the retirement system or applicable medical board
37 to have been caused by such retiree's participation in the World Trade
38 Center rescue, recovery or cleanup operations, as defined in subpara-
39 graph (d) of paragraph one of subdivision h of this section, then unless
40 the contrary be proven by competent evidence, such retiree shall be
41 deemed to have died as a natural and proximate result of an accident
42 sustained in the performance of duty and not as a result of willful
43 negligence on his or her part. Such retiree's eligible beneficiary, as
44 set forth in section six hundred one of this article, shall be entitled
45 to an accidental death benefit as provided by section six hundred seven
46 of this article, however, for the purposes of determining the salary
47 base upon which the accidental death benefit is calculated, the retiree
48 shall be deemed to have died on the date of his or her retirement. Upon
49 the retiree's death, the eligible beneficiary[~~, as set forth in section~~
50 ~~six hundred seven of this article,~~] shall make a written application to
51 the head of the retirement system within the time for filing an applica-
52 tion for an accidental death benefit as set forth in section six hundred
53 seven of this article requesting conversion of such retiree's service or
54 disability retirement benefit to an accidental death benefit. At the
55 time of such conversion, the eligible beneficiary shall relinquish all
56 rights to the prospective benefits payable under the service or disabil-

A. 4697

12

1 ity retirement benefit, including any post-retirement death benefits,
2 since the retiree's death. If the eligible beneficiary is not the only
3 beneficiary receiving or entitled to receive a benefit under the service
4 or disability retirement benefit (including, but not limited to, post-
5 retirement death benefits or benefits paid or payable pursuant to the
6 retiree's option selection), the accidental death benefit payments to
7 the eligible beneficiary will be reduced by any amounts paid or payable
8 to any other beneficiary.

9 § 14. Section 605-a of the retirement and social security law is
10 amended by adding a new subdivision j to read as follows:

11 j. Notwithstanding any other provision of this chapter or of any
12 general, special or local law, charter, administrative code or rule or
13 regulation to the contrary, if a member who: (1) has met the criteria of
14 subdivision h of this section; and (2) dies in active service from a
15 qualifying condition or impairment of health, as defined in subparagraph
16 (c) of paragraph one of subdivision h of this section, that is deter-
17 mined by the applicable head of the retirement system or applicable
18 medical board to have been caused by such member's participation in the
19 World Trade Center rescue, recovery or cleanup operations, as defined in
20 subparagraph (d) of paragraph one of subdivision h of this section, then
21 unless the contrary be proven by competent evidence, such member shall
22 be deemed to have died as a natural and proximate result of an accident
23 sustained in the performance of duty and not as a result of willful
24 negligence on his or her part. Such member's eligible beneficiary, as
25 set forth in section six hundred one of this article, shall be entitled
26 to an accidental death benefit provided he or she makes written applica-
27 tion to the head of the retirement system within the time for filing an
28 application for an accidental death benefit as set forth in section six
29 hundred seven of this article.

30 § 15. Subdivision e of section 605-b of the retirement and social
31 security law, as added by chapter 445 of the laws of 2006, is amended to
32 read as follows:

33 e. Notwithstanding any other provision of this chapter or of any
34 general, special or local law, charter, administrative code or rule or
35 regulation to the contrary, if a retiree~~[, who at the time of death has~~
36 ~~not been retired for more than twenty-five years,]~~ who: (1) has met the
37 criteria of subdivision d of this section and retired on a service or
38 disability retirement, or would have met the criteria if not already
39 retired on an accidental disability~~[, and it is determined by the comp-~~
40 ~~troller or the applicable medical board that such retiree's death~~
41 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
42 ~~of subdivision d of this section, then such]; and (2) has not been~~
43 ~~retired for more than twenty-five years; and (3) dies from a qualifying~~
44 ~~condition or impairment of health, as defined in subparagraph (c) of~~
45 ~~paragraph one of subdivision d of this section, that is determined by~~
46 ~~the applicable head of the retirement system or applicable medical board~~
47 ~~to have been caused by such retiree's participation in the World Trade~~
48 ~~Center rescue, recovery or cleanup operations, as defined in subpara-~~
49 ~~graph (d) of paragraph one of subdivision d of this section, then unless~~
50 ~~the contrary be proven by competent evidence, such retiree shall be~~
51 ~~deemed to have died as a natural and proximate result of an accident~~
52 ~~sustained in the performance of duty and not as a result of willful~~
53 ~~negligence on his or her part. Such retiree's eligible beneficiary, as~~
54 ~~set forth in section six hundred one of this article, shall be entitled~~
55 ~~to an accidental death benefit as provided by section six hundred seven~~
56 ~~of this article, however, for the purposes of determining the salary~~

A. 4697

13

1 base upon which the accidental death benefit is calculated, the retiree
2 shall be deemed to have died on the date of his or her retirement. Upon
3 the retiree's death, the eligible beneficiary[~~, as set forth in section~~
4 ~~six hundred seven of this article,~~] shall make a written application to
5 the head of the retirement system within the time for filing an applica-
6 tion for an accidental death benefit as set forth in section six hundred
7 seven of this article requesting conversion of such retiree's service or
8 disability retirement benefit to an accidental death benefit. At the
9 time of such conversion, the eligible beneficiary shall relinquish all
10 rights to the prospective benefits payable under the service or disabili-
11 ty retirement benefit, including any post-retirement death benefits,
12 since the retiree's death. If the eligible beneficiary is not the only
13 beneficiary receiving or entitled to receive a benefit under the service
14 or disability retirement benefit (including, but not limited to, post-
15 retirement death benefits or benefits paid or payable pursuant to the
16 retiree's option selection), the accidental death benefit payments to
17 the eligible beneficiary will be reduced by any amounts paid or payable
18 to any other beneficiary.

19 § 16. Section 605-b of the retirement and social security law is
20 amended by adding a new subdivision f to read as follows:

21 f. Notwithstanding any other provision of this chapter or of any
22 general, special or local law, charter, administrative code or rule or
23 regulation to the contrary, if a member who: (1) has met the criteria of
24 subdivision d of this section; and (2) dies in active service from a
25 qualifying condition or impairment of health, as defined in subparagraph
26 (c) of paragraph one of subdivision d of this section, that is deter-
27 mined by the applicable head of the retirement system or applicable
28 medical board to have been caused by such member's participation in the
29 World Trade Center rescue, recovery or cleanup operations, as defined in
30 subparagraph (d) of paragraph one of subdivision d of this section, then
31 unless the contrary be proven by competent evidence, such member shall
32 be deemed to have died as a natural and proximate result of an accident
33 sustained in the performance of duty and not as a result of willful
34 negligence on his or her part. Such member's eligible beneficiary, as
35 set forth in section six hundred one of this article, shall be entitled
36 to an accidental death benefit provided he or she makes written applica-
37 tion to the head of the retirement system within the time for filing an
38 application for an accidental death benefit as set forth in section six
39 hundred seven of this article.

40 § 17. Subdivision c of section 605-c of the retirement and social
41 security law, as added by chapter 445 of the laws of 2006, is amended
42 and a new subdivision d is added to read as follows:

43 c. Notwithstanding any other provision of this chapter or of any
44 general, special or local law, charter, administrative code or rule or
45 regulation to the contrary, if a retiree[~~, who at the time of death has~~
46 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
47 criteria of subdivision b of this section and retired on a service or
48 disability retirement, or would have met the criteria if not already
49 retired on an accidental disability[~~, and it is determined by the comp-~~
50 ~~troller or the applicable medical board that such retiree's death~~
51 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
52 ~~of subdivision b of this section, then such]; and (2) has not been~~
53 ~~retired for more than twenty-five years; and (3) dies from a qualifying~~
54 ~~condition or impairment of health, as defined in subparagraph (c) of~~
55 ~~paragraph one of subdivision b of this section, that is determined by~~
56 ~~the applicable head of the retirement system or applicable medical board~~

A. 4697

14

1 to have been caused by such retiree's participation in the World Trade
2 Center rescue, recovery or cleanup operations, as defined in subpara-
3 graph (d) of paragraph one of subdivision b of this section, then unless
4 the contrary be proven by competent evidence, such retiree shall be
5 deemed to have died as a natural and proximate result of an accident
6 sustained in the performance of duty and not as a result of willful
7 negligence on his or her part. Such retiree's eligible beneficiary, as
8 set forth in section six hundred one of this article, shall be entitled
9 to an accidental death benefit as provided by section six hundred seven
10 of this article, however, for the purposes of determining the salary
11 base upon which the accidental death benefit is calculated, the retiree
12 shall be deemed to have died on the date of his or her retirement. Upon
13 the retiree's death, the eligible beneficiary[~~as set forth in section~~
14 ~~six hundred seven of this article,~~] shall make a written application to
15 the head of the retirement system within the time for filing an applica-
16 tion for an accidental death benefit as set forth in section six hundred
17 seven of this article requesting conversion of such retiree's service or
18 disability retirement benefit to an accidental death benefit. At the
19 time of such conversion, the eligible beneficiary shall relinquish all
20 rights to the prospective benefits payable under the service or disabil-
21 ity retirement benefit, including any post-retirement death benefits,
22 since the retiree's death. If the eligible beneficiary is not the only
23 beneficiary receiving or entitled to receive a benefit under the service
24 or disability retirement benefit (including, but not limited to, post-
25 retirement death benefits or benefits paid or payable pursuant to the
26 retiree's option selection), the accidental death benefit payments to
27 the eligible beneficiary will be reduced by any amounts paid or payable
28 to any other beneficiary.

29 d. Notwithstanding any other provision of this chapter or of any
30 general, special or local law, charter, administrative code or rule or
31 regulation to the contrary, if a member who: (1) has met the criteria of
32 subdivision b of this section; and (2) dies in active service from a
33 qualifying condition or impairment of health, as defined in subparagraph
34 (c) of paragraph one of subdivision b of this section, that is deter-
35 mined by the applicable head of the retirement system or applicable
36 medical board to have been caused by such member's participation in the
37 World Trade Center rescue, recovery or cleanup operations, as defined in
38 subparagraph (d) of paragraph one of subdivision b of this section, then
39 unless the contrary be proven by competent evidence, such member shall
40 be deemed to have died as a natural and proximate result of an accident
41 sustained in the performance of duty and not as a result of willful
42 negligence on his or her part. Such member's eligible beneficiary, as
43 set forth in section six hundred one of this article, shall be entitled
44 to an accidental death benefit provided he or she makes written applica-
45 tion to the head of the retirement system within the time for filing an
46 application for an accidental death benefit as set forth in section six
47 hundred seven of this article.

48 § 18. Subdivision d of section 607-b of the retirement and social
49 security law, as added by chapter 445 of the laws of 2006, is amended
50 and a new subdivision e is added to read as follows:

51 d. Notwithstanding any other provision of this chapter or of any
52 general, special or local law, charter, administrative code or rule or
53 regulation to the contrary, if a retiree[~~who at the time of death has~~
54 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
55 criteria of subdivision c of this section and retired on a service or
56 disability retirement, or would have met the criteria if not already

A. 4697

15

1 retired on an accidental disability[~~, and it is determined by the comp-~~
2 ~~troller or the applicable medical board that such retiree's death~~
3 ~~resulted from a disease enumerated in subparagraph (c) of paragraph one~~
4 ~~of subdivision c of this section, then such]; and (2) has not been~~
5 retired for more than twenty-five years; and (3) dies from a qualifying
6 condition or impairment of health, as defined in subparagraph (c) of
7 paragraph one of subdivision c of this section, that is determined by
8 the applicable head of the retirement system or applicable medical board
9 to have been caused by such retiree's participation in the World Trade
10 Center rescue, recovery or cleanup operations, as defined in subpara-
11 graph (d) of paragraph one of subdivision c of this section, then unless
12 the contrary be proven by competent evidence, such retiree shall be
13 deemed to have died as a natural and proximate result of an accident
14 sustained in the performance of duty and not as a result of willful
15 negligence on his or her part. Such retiree's eligible beneficiary, as
16 set forth in section six hundred one of this article, shall be entitled
17 to an accidental death benefit as provided by section six hundred seven
18 of this article, however, for the purposes of determining the salary
19 base upon which the accidental death benefit is calculated, the retiree
20 shall be deemed to have died on the date of his or her retirement. Upon
21 the retiree's death, the eligible beneficiary[~~, as set forth in section~~
22 ~~six hundred seven of this article,]~~ shall make a written application to
23 the head of the retirement system within the time for filing an applica-
24 tion for an accidental death benefit as set forth in section six hundred
25 seven of this article requesting conversion of such retiree's service or
26 disability retirement benefit to an accidental death benefit. At the
27 time of such conversion, the eligible beneficiary shall relinquish all
28 rights to the prospective benefits payable under the service or disabil-
29 ity retirement benefit, including any post-retirement death benefits,
30 since the retiree's death. If the eligible beneficiary is not the only
31 beneficiary receiving or entitled to receive a benefit under the service
32 or disability retirement benefit (including, but not limited to, post-
33 retirement death benefits or benefits paid or payable pursuant to the
34 retiree's option selection), the accidental death benefit payments to
35 the eligible beneficiary will be reduced by any amounts paid or payable
36 to any other beneficiary.

37 e. Notwithstanding any other provision of this chapter or of any
38 general, special or local law, charter, administrative code or rule or
39 regulation to the contrary, if a member who: (1) has met the criteria of
40 subdivision c of this section; and (2) dies in active service from a
41 qualifying condition or impairment of health, as defined in subparagraph
42 (c) of paragraph one of subdivision c of this section, that is deter-
43 mined by the applicable head of the retirement system or applicable
44 medical board to have been caused by such member's participation in the
45 World Trade Center rescue, recovery or cleanup operations, as defined in
46 subparagraph (d) of paragraph one of subdivision c of this section, then
47 unless the contrary be proven by competent evidence, such member shall
48 be deemed to have died as a natural and proximate result of an accident
49 sustained in the performance of duty and not as a result of willful
50 negligence on his or her part. Such member's eligible beneficiary, as
51 set forth in section six hundred one of this article, shall be entitled
52 to an accidental death benefit provided he or she makes written applica-
53 tion to the head of the retirement system within the time for filing an
54 application for an accidental death benefit as set forth in section six
55 hundred seven of this article.

A. 4697

16

1 § 19. Subdivision 3 of section 13-252.1 of the administrative code of
2 the city of New York, as added by chapter 445 of the laws of 2006, is
3 amended and a new subdivision 4 is added to read as follows:
4 3. Notwithstanding any other provision of this chapter or of any
5 general, special or local law, charter, administrative code or rule or
6 regulation to the contrary, if a retiree[~~, who at the time of death has~~
7 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
8 criteria of subdivision one of this section and retired on a service or
9 disability retirement, or would have met the criteria if not already
10 retired on an accidental disability[~~, and it is determined by the appli-~~
11 ~~cable medical board that such retiree's death resulted from a disease~~
12 ~~enumerated in paragraph (e) of subdivision one of this section, then~~
13 ~~such~~]; and (2) has not been retired for more than twenty-five years; and
14 (3) dies from a qualifying condition or impairment of health, as defined
15 in paragraph (c) of subdivision one of this section, that is determined
16 by the applicable head of the retirement system or applicable medical
17 board to have been caused by such retiree's participation in the World
18 Trade Center rescue, recovery or cleanup operations, as defined in para-
19 graph (d) of subdivision one of this section, then unless the contrary
20 be proven by competent evidence, such retiree shall be deemed to have
21 died as a natural and proximate result of an accident sustained in the
22 performance of duty and not as a result of willful negligence on his or
23 her part. Such retiree's eligible beneficiary, as set forth in section
24 13-244 of this subchapter, shall be entitled to an accidental death
25 benefit as provided by section 13-244 of this subchapter, however, for
26 the purposes of determining the salary base upon which the accidental
27 death benefit is calculated, the retiree shall be deemed to have died on
28 the date of his or her retirement. Upon the retiree's death, the eligi-
29 ble beneficiary[~~, as set forth in section 13-244 of this subchapter,~~
30 shall make a written application to the head of the retirement system
31 within the time for filing an application for an accidental death bene-
32 fit as set forth in section 13-244 of this subchapter requesting conver-
33 sion of such retiree's service or disability retirement benefit to an
34 accidental death benefit. At the time of such conversion, the eligible
35 beneficiary shall relinquish all rights to the prospective benefits
36 payable under the service or disability retirement benefit, including
37 any post-retirement death benefits, since the retiree's death. If the
38 eligible beneficiary is not the only beneficiary receiving or entitled
39 to receive a benefit under the service or disability retirement benefit
40 (including, but not limited to, post-retirement death benefits or bene-
41 fits paid or payable pursuant to the retiree's option selection), the
42 accidental death benefit payments to the eligible beneficiary will be
43 reduced by any amounts paid or payable to any other beneficiary.

44 4. Notwithstanding any other provision of this code or of any general,
45 special or local law, charter, or rule or regulation to the contrary, if
46 a member who: (1) has met the criteria of subdivision one of this
47 section; and (2) dies in active service from a qualifying condition or
48 impairment of health, as defined in paragraph (c) of subdivision one of
49 this section, that is determined by the applicable head of the retire-
50 ment system or applicable medical board to have been caused by such
51 member's participation in the World Trade Center rescue, recovery or
52 cleanup operations, as defined in paragraph (d) of subdivision one of
53 this section, then unless the contrary be proven by competent evidence,
54 such member shall be deemed to have died as a natural and proximate
55 result of an accident sustained in the performance of duty and not as a
56 result of willful negligence on his or her part. Such member's eligible

A. 4697

17

1 beneficiary, as set forth in section 13-244 of this subchapter, shall be
2 entitled to an accidental death benefit provided he or she makes written
3 application to the head of the retirement system within the time for
4 filing an application for an accidental death benefit as set forth in
5 section 13-244 of this subchapter.

6 § 20. Subdivision 3 of section 13-353.1 of the administrative code of
7 the city of New York, as added by chapter 445 of the laws of 2006, is
8 amended and a new subdivision 4 is added to read as follows:

9 3. Notwithstanding any other provision of this chapter or of any
10 general, special or local law, charter, administrative code or rule or
11 regulation to the contrary, if a retiree~~[, who at the time of death has~~
12 ~~not been retired for more than twenty-five years,~~ who: (1) has met the
13 criteria of subdivision one of this section and retired on a service or
14 disability retirement, or would have met the criteria if not already
15 retired on an accidental disability~~[, and it is determined by the appli-~~
16 ~~icable medical board that such retiree's death resulted from a disease~~
17 ~~enumerated in paragraph (c) of subdivision one of this section, then~~
18 ~~such]; and (2) has not been retired for more than twenty-five years; and~~
19 ~~(3) dies from a qualifying condition or impairment of health, as defined~~
20 ~~in paragraph (c) of subdivision one of this section, that is determined~~
21 ~~by the applicable head of the retirement system or applicable medical~~
22 ~~board to have been caused by such retiree's participation in the World~~
23 ~~Trade Center rescue, recovery or cleanup operations, as defined in para-~~
24 ~~graph (d) of subdivision one of this section, then unless the contrary~~
25 ~~be proven by competent evidence, such retiree shall be deemed to have~~
26 ~~died as a natural and proximate result of an accident sustained in the~~
27 ~~performance of duty and not as a result of willful negligence on his or~~
28 ~~her part. Such retiree's eligible beneficiary, as set forth in section~~
29 ~~13-347 of this subchapter, shall be entitled to an accidental death~~
30 ~~benefit as provided by sections 13-347 and 13-348 of this subchapter,~~
31 ~~however, for the purposes of determining the salary base upon which the~~
32 ~~accidental death benefit is calculated, the retiree shall be deemed to~~
33 ~~have died on the date of his or her retirement. Upon the retiree's~~
34 ~~death, the eligible beneficiary~~[, as set forth in sections 13-347 and~~~~
35 ~~13-348 of this subchapter,~~] shall make a written application to the head
36 of the retirement system within the time for filing an application for
37 an accidental death benefit as set forth in sections 13-347 and 13-348
38 of this subchapter requesting conversion of such retiree's service or
39 disability retirement benefit to an accidental death benefit. At the
40 time of such conversion, the eligible beneficiary shall relinquish all
41 rights to the prospective benefits payable under the service or disabil-
42 ity retirement benefit, including any post-retirement death benefits,
43 since the retiree's death. If the eligible beneficiary is not the only
44 beneficiary receiving or entitled to receive a benefit under the service
45 or disability retirement benefit (including, but not limited to, post-
46 retirement death benefits or benefits paid or payable pursuant to the
47 retiree's option selection), the accidental death benefit payments to
48 the eligible beneficiary will be reduced by any amounts paid or payable
49 to any other beneficiary.

50 4. Notwithstanding any other provision of this code or of any general,
51 special or local law, charter, or rule or regulation to the contrary, if
52 a member who: (1) has met the criteria of subdivision one of this
53 section; and (2) dies in active service from a qualifying condition or
54 impairment of health, as defined in paragraph (c) of subdivision one of
55 this section, that is determined by the applicable head of the retire-
56 ment system or applicable medical board to have been caused by such

A. 4697

18

1 member's participation in the World Trade Center rescue, recovery or
2 cleanup operations, as defined in paragraph (d) of subdivision one of
3 this section, then unless the contrary be proven by competent evidence,
4 such member shall be deemed to have died as a natural and proximate
5 result of an accident sustained in the performance of duty and not as a
6 result of willful negligence on his or her part. Such member's eligible
7 beneficiary, as set forth in section 13-347 of this subchapter, shall be
8 entitled to an accidental death benefit provided he or she makes written
9 application to the head of the retirement system within the time for
10 filing an application for an accidental death benefit as set forth in
11 section 13-347 of this subchapter.

12 § 21. Subdivision c of section 13-168 of the administrative code of
13 the city of New York, as added by chapter 445 of the laws of 2006, is
14 amended and a new subdivision d is added to read as follows:

15 c. Notwithstanding any other provision of this chapter or of any
16 general, special or local law, charter, administrative code or rule or
17 regulation to the contrary, if a retiree[~~, who at the time of death has~~
18 ~~not been retired for more than twenty-five years,~~ who: (1) has met the
19 criteria of subdivision b of this section and retired on a service or
20 disability retirement, or would have met the criteria if not already
21 retired on an accidental disability[~~, and it is determined by the comp-~~
22 ~~troller that such retiree's death resulted from a disease enumerated in~~
23 ~~clause three of subparagraph (a) of paragraph five of subdivision b of~~
24 ~~this section, then such]; and (2) has not been retired for more than~~
25 ~~twenty-five years; and (3) dies from a qualifying condition or impair-~~
26 ~~ment of health, as defined in subparagraph (a) of paragraph five of~~
27 ~~subdivision b of this section, that is determined by the applicable head~~
28 ~~of the retirement system or applicable medical board to have been caused~~
29 ~~by such retiree's participation in the World Trade Center rescue, recov-~~
30 ~~ery or cleanup operations, as defined in subparagraph (a) of paragraph~~
31 ~~five of subdivision b of this section, then unless the contrary be prov-~~
32 ~~en by competent evidence, such retiree shall be deemed to have died as a~~
33 ~~natural and proximate result of an accident sustained in the performance~~
34 ~~of duty and not as a result of willful negligence on his or her part.~~
35 ~~Such retiree's eligible beneficiary, as set forth in section 13-149 of~~
36 ~~this chapter, shall be entitled to an accidental death benefit as~~
37 ~~provided by section 13-149 of this chapter, however, for the purposes of~~
38 ~~determining the salary base upon which the accidental death benefit is~~
39 ~~calculated, the retiree shall be deemed to have died on the date of his~~
40 ~~or her retirement. Upon the retiree's death, the eligible beneficiary[~~r~~~~
41 ~~as set forth in section 13-149 of this chapter,] shall make a written~~
42 application to the head of the retirement system within the time for
43 filing an application for an accidental death benefit as set forth in
44 section 13-149 of this chapter requesting conversion of such retiree's
45 service or disability retirement benefit to an accidental death benefit.
46 At the time of such conversion, the eligible beneficiary shall relin-
47 quish all rights to the prospective benefits payable under the service
48 or disability retirement benefit, including any post-retirement death
49 benefits, since the retiree's death. If the eligible beneficiary is not
50 the only beneficiary receiving or entitled to receive a benefit under
51 the service or disability retirement benefit (including, but not limited
52 to, post-retirement death benefits or benefits paid or payable pursuant
53 to the retiree's option selection), the accidental death benefit
54 payments to the eligible beneficiary will be reduced by any amounts paid
55 or payable to any other beneficiary.

A. 4697

19

1 d. Notwithstanding any other provision of this code or of any general,
2 special or local law, charter, or rule or regulation to the contrary, if
3 a member who: (1) has met the criteria of subdivision b of this section;
4 and (2) dies in active service from a qualifying condition or impairment
5 of health, as defined in subparagraph (a) of paragraph five of subdivi-
6 sion b of this section, that is determined by the applicable head of the
7 retirement system or applicable medical board to have been caused by
8 such member's participation in the World Trade Center rescue, recovery
9 or cleanup operations, as defined in subparagraph (a) of paragraph five
10 of subdivision b of this section, then unless the contrary be proven by
11 competent evidence, such member shall be deemed to have died as a
12 natural and proximate result of an accident sustained in the performance
13 of duty and not as a result of willful negligence on his or her part.
14 Such member's eligible beneficiary, as set forth in section 13-149 of
15 this chapter, shall be entitled to an accidental death benefit provided
16 he or she makes written application to the head of the retirement system
17 within the time for filing an application for an accidental death bene-
18 fit as set forth in section 13-149 of this chapter.

19 § 22. Subdivision d of section 507-c of the retirement and social
20 security law, as added by chapter 445 of the laws of 2006, is amended
21 and a new subdivision e is added to read as follows:

22 d. Notwithstanding any other provision of this chapter or of any
23 general, special or local law, charter, administrative code or rule or
24 regulation to the contrary, if a retiree[~~, who at the time of death has~~
25 ~~not been retired for more than twenty-five years,~~] who: (1) has met the
26 criteria of subdivision c of this section and retired on a service or
27 disability retirement, or would have met the criteria if not already
28 retired on an accidental disability[~~, and it is determined by the comp-~~
29 ~~troller or the applicable medical board that such retiree's death~~
30 ~~resulted from a disease enumerated in subdivision e of this section,~~
31 ~~then such~~]; and (2) has not been retired for more than twenty-five
32 years; and (3) dies from a qualifying condition or impairment of health,
33 as defined in subparagraph (c) of paragraph one of subdivision c of this
34 section, that is determined by the applicable head of the retirement
35 system or applicable medical board to have been caused by such retiree's
36 participation in the World Trade Center rescue, recovery or cleanup
37 operations, as defined in subparagraph (d) of paragraph one of subdivi-
38 sion c of this section, then unless the contrary be proven by competent
39 evidence, such retiree shall be deemed to have died as a natural and
40 proximate result of an accident sustained in the performance of duty and
41 not as a result of willful negligence on his or her part. Such
42 retiree's eligible beneficiary, as set forth in section five hundred one
43 of this article, shall be entitled to an accidental death benefit as
44 provided by section five hundred nine of this article, however, for the
45 purposes of determining the salary base upon which the accidental death
46 benefit is calculated, the retiree shall be deemed to have died on the
47 date of his or her retirement. Upon the retiree's death, the eligible
48 beneficiary[~~, as set forth in section five hundred nine of this arti-~~
49 ~~cle,~~] shall make a written application to the head of the retirement
50 system within the time for filing an application for an accidental death
51 benefit as set forth in section five hundred nine of this article
52 requesting conversion of such retiree's service or disability retirement
53 benefit to an accidental death benefit. At the time of such conversion,
54 the eligible beneficiary shall relinquish all rights to the prospective
55 benefits payable under the service or disability retirement benefit,
56 including any post-retirement death benefits, since the retiree's death.

A. 4697

20

1 If the eligible beneficiary is not the only beneficiary receiving or
2 entitled to receive a benefit under the service or disability retirement
3 benefit (including, but not limited to, post-retirement death benefits
4 or benefits paid or payable pursuant to the retiree's option selection),
5 the accidental death benefit payments to the eligible beneficiary will
6 be reduced by any amounts paid or payable to any other beneficiary.

7 e. Notwithstanding any other provision of this chapter or of any
8 general, special or local law, charter, administrative code or rule or
9 regulation to the contrary, if a member who: (1) has met the criteria of
10 subdivision c of this section; and (2) dies in active service from a
11 qualifying condition or impairment of health, as defined in subparagraph
12 (c) of paragraph one of subdivision c of this section, that is deter-
13 mined by the applicable head of the retirement system or applicable
14 medical board to have been caused by such member's participation in the
15 World Trade Center rescue, recovery or cleanup operations, as defined in
16 subparagraph (d) of paragraph one of subdivision c of this section, then
17 unless the contrary be proven by competent evidence, such member shall
18 be deemed to have died as a natural and proximate result of an accident
19 sustained in the performance of duty and not as a result of willful
20 negligence on his or her part. Such member's eligible beneficiary, as
21 set forth in section five hundred one of this article, shall be entitled
22 to an accidental death benefit provided he or she makes written applica-
23 tion to the head of the retirement system within the time for filing an
24 application for an accidental death benefit as set forth in section five
25 hundred nine of this article.

26 § 23. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on the same date and in the same
28 manner as chapter 445 of the laws of 2006; provided, however, that the
29 amendments to sections 507, 605, 605-a, 605-b, 605-c, 607-b and 507-c of
30 the retirement and social security law made by sections nine, eleven,
31 twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and
32 twenty-two of this act, shall not affect the expiration of such sections
33 as provided in section 615 of the retirement and social security law and
34 shall be deemed to expire therewith.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

If this bill were to be enacted in the 2007 Legislative Session, there would be no cost to the city over the cost set forth in the fiscal note to chapter 445 of the laws of 2006.

This estimate, dated January 30, 2007, was prepared by Jonathan Schwartz, consulting actuary.

FISCAL NOTE. -- Pursuant to Legislative Law, Section 50:

This bill would amend Chapter 445 of the Laws of 2006, which provided certain benefits related to the World Trade Center tragedy of September 11, 2001.

If this bill is enacted, insofar as it would affect the New York State and Local Employees' Retirement System (NYS&LERS) and the New York State and Local Police and Fire Retirement System (NYS&LPFRS), there would be no additional costs to the NYS&LERS and the NYS&LPFRS.

This estimate, dated February 2, 2007, and intended for use only during the 2007 Legislative Session, is Fiscal Note No. 2007-92, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.