Committee on Civil Service and Labor

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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON CIVIL SERVICE AND LABOR**

Hon. I. Daneek Miller, *Chair*

December 19, 2019

**INT. NO. 1786:** By Council Members Miller, Kallos, Ayala and Louis (by request of the Mayor)

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for the surviving family members of certain deceased employees of the department of sanitation

**ADMINISTRATIVE CODE:** Amends subdivision b of section 12-126

**INT. NO. 1810:** By Council Members Miller, Louis and Ayala (by request of the Mayor)

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for the surviving family members of certain deceased employees of the department of transportation

**ADMINISTRATIVE CODE:** Amends subdivision b of section 12-126

**INT. NO. 1604-B:** By Council Members Miller, Brannan, Kallos, Lander, Ayala, Louis and Vallone

**TITLE:**  A Local Law to amend the administrative code of the city of New York, in relation to reporting of workers’ compensation data.

**ADMINISTRATIVE CODE:**  Amends Subdivision c of Section 12-127 of chapter 1 of title 12.

**RES. NO. 40-A:** By Council Members Cornegy, Koslowitz, Ayala and Louis

**TITLE:**  Resolution calling upon the New York City Employees’ Retirement System to determine that members are disabled for purposes of disability pensions, if the New York State Workers’ Compensation Board determines that a member has a permanent partial disability, and the U.S. Social Security Administration determines that a member is disabled for substantial gainful (work) activity, and approved for social security disability benefits

**INTRODUCTION**

On December 17, 2019, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, held a hearing to hear and vote on Int. No. 1786 and Int. No. 1810, and to vote on Int. No. 1604-B and Res. No. 40-A. Int. No. 1786, sponsored by Council Member Miller and introduced by request of the Mayor, is in relation to health insurance benefits for surviving family members of certain deceased employees of the department of sanitation; Int. No. 1810, sponsored by Council Member Miller and introduced by request of the Mayor, is in relation to health insurance coverage for surviving family members of certain deceased employees of the department of transportation; Int. No. 1604-B, sponsored by Council Member Miller, relates to the reporting of workers’ compensation data; and Res. No. 40-A, sponsored by Council member Robert Cornegy Jr., relates to the New York City Employees’ Retirement System (NYCERS) and how members are determined disabled for purposes of disability pensions.

Witnesses that testified on Int. Nos. 1786 and 1810 were the Office of Labor Relations and the Mayor’s Office. Previous versions of Int. No. 1604-B and Res. No. 40-A were heard by the Committee on Civil Service and Labor on June 20, 2019. Witnesses that testified on these two pieces of legislation included the New York City Department of Citywide Administrative Services (DCAS), DCAS’ Citywide Office of Occupational Safety (COSH), former director of DCAS’ COSH, Fire Department of New York (FDNY)-Emergency Medical Services Local 2507, and former members of the FDNY.

On December 17, 2019, the Committee passed Int. Nos. 1786, 1810, 1604-B and Res. No. 40-A by a vote of six in the affirmative, zero in the negative, with zero abstentions.

**BACKGROUND**

**Extension of City Health Insurance Coverage**

Generally, when New York City municipal employees pass away in the course of duty, local law allows for the City to extend health insurance coverage to the surviving family members of the former employee.[[1]](#footnote-1) At this time, the law allows specifically for the “surviving spouses, domestic partners and children” of police officers, firefighters, and other uniformed employees, such as Department of Sanitation workers, to benefit from this policy.[[2]](#footnote-2) The City has historically extended this health insurance coverage to the surviving family members of deceased uniformed municipal employees at the discretion of the Mayor and specifically by adding provisions to the local law that award these benefits to individual city employees who have passed away in the course of duty.[[3]](#footnote-3) Municipal employees who are not uniformed do not have this benefit extended to them or their family members.

Recently, two municipal employees have passed away in the course of duty for New York City. On September 24, 2019, Mathew Jakubowski, a member of the Department of Sanitation, passed away on the job,[[4]](#footnote-4) and on October 22, 2019, Eduardo Calle-Abril, an employee of the Department of Transportation, also passed away while on duty.[[5]](#footnote-5) Int. Nos. 1786 and 1810, heard and voted on December 17, 2019, would honor these two employees by extending health insurance benefits to their surviving family members.

**Workers’ Compensation**

Workers’ compensation is insurance that provides cash benefits and/or medical care for workers who are injured or have become ill as a result of their job.[[6]](#footnote-6)Under New York State’s Worker Compensation Law, virtually all employers in New York State must provide workers’ compensation coverage for their employees.[[7]](#footnote-7) The New York State Workers’ Compensation Board processes and handles the claims of employees who have become injured or ill due to their job.[[8]](#footnote-8) As the workers’ compensation system is a form of no-fault insurance, employees have a right to receive workers’ compensation benefits, however an employee usually cannot sue an employer for an injury if such a policy is in place.[[9]](#footnote-9)

New York City, as mandated by Local Law 41 of 2004, requires that a report concerning workers’ compensation claims by City employees be compiled annually and be transmitted to the Mayor, the Comptroller, the Public Advocate and the Speaker of the Council.[[10]](#footnote-10) The most recently received report for calendar year 2018, in accordance with Section 12-127 of the Administrative Code, includes a breakdown of the expenses paid, a list of specific claims for each agency, as well as specific types and locations of injuries, with year-to-year comparisons of the information from 2005 through 2018.[[11]](#footnote-11) For calendar year 2018:

* A total of 18,131 new claims were received, representing a decrease of 2.5% in claims when compared with 2017 for claims filed in that year;
* The total amount paid in 2018 with respect to these claims was $24.9 million, of which includes $15.9 million for wage replacement and $8.9 million for medical costs, totaling a decrease of 3% when compared with payments made in 2017;
* The largest numbers of claims came from the following five agencies: Department of Correction (5,350), Department of Education (3,150), Health + Hospitals Corporation (3,114), FDNY (1,690) and Police Department (1,112); totaling approximately 80% of all claims made in 2018;
* The leading agencies in terms of cost were: Department of Transportation ($4.9 million), Department of Correction ($4.4 million), Health + Hospitals Corporation ($3.7 million), Department of Education ($2.4 million) and Police Department ($1.6 million); totaling approximately 68% of payments made on the cases reported.[[12]](#footnote-12)

**ANALYSIS OF INT. NO. 1786**

Int. No. 1786 would extend health insurance coverage to surviving family members of deceased municipal employees working for the Bureau of Motor Equipment of the Department of Sanitation who died between September 23, 2019 and September 25, 2019 and who died as a natural or proximate result of an accident or injury sustained while performing their duties for the city. The bill amends previous language that allowed these survivorship benefits to pass to the surviving spouses, domestic partners, and children of certain enumerated municipal employees who also died as a natural or proximate result of an accident or injury sustained while performing duties for the city.

This bill would take effect immediately and be retroactive to September 23, 2019.

**ANALYSIS OF INT. NO. 1810**

Int. No. 1810 would extend health insurance coverage to surviving family members of deceased municipal employees working for Roadway Repair and Maintenance Division or the Bridges Division of the Department of Transportation who died between October 21, 2019 and October 23, 2019 and who died as a natural or proximate result of an accident or injury sustained while performing their duties for the city. The bill amends previous language that allowed these survivorship benefits to pass to the surviving spouses, domestic partners, and children of certain enumerated municipal employees who also died as a natural or proximate result of an accident or injury sustained while performing duties for the city.

This bill would take effect immediately and be retroactive to October 22, 2019.

**ANALYSIS OF INT. NO. 1604-B**

The legislation would amend the Administrative Code of the City of New York regarding reporting on data regarding workers’ compensation to include the collection of more data. Under the legislation, the report would be issued by the City Law Department, instead of the Mayor, and include additional detailed information regarding occupational diseases in addition to workplace physical injuries. The new reporting requirements would be more granular in detail and require the reporting of the type and cost of workers’ compensation claims; use of modified duty assignments; and use of disability transfers.

The legislation will also require every City agency to develop, implement and report an annual accident and illness prevention program designed to reduce injuries and illnesses identified in the report and for the Mayor to develop initiatives that the City can take to mitigate workplace injuries and illnesses. Finally, the report, which is currently required to be sent to the Comptroller, Public Advocate and Speaker of the Council, would also be distributed to every Council Member.

The legislation would take effect 120 days after it becomes law.

Since introduction, the language of the bill has been amended to combine previous paragraphs 2 and 3 into one paragraph for cohesion and to adjust what granular information is and is not collected, such as no longer collecting information on modified duty assignments. The bill has also been amended to add a clause to ensure confidentiality of workers when workers’ compensation information is gathered and reported to the Council and Mayor.

**ANALYSIS OF RES. 40-A**

The resolution would call for employees of the City of New York who are injured on the job to receive the various Federal, State and City benefits that they are entitled to receive. As confirmed by case law from 2008, NYCERS has the sole independent authority to determine eligibility for disability retirement based on the system’s Medical Board’s analysis and determination. However, it is possible for injured workers who are classified as “disabled” by the state and federal governments and who receive benefits from the New York State Workers’ Compensation Board and the U.S. Social Security Administration, to simultaneously be denied disability retirement by NYCERS.

This resolution would call for NYCERS to determine that members are disabled for purposes of disability pensions, if the Workers’ Compensation Board determines that a members has a permanent partial disability, and the U.S. Social Security Administration determines that a member is disabled for gainful (work) activity, and approved for social security disability benefits.

**UPDATE**

On December 17, 2019, the Committee passed Int. Nos. 1786, 1810, 1604-B and Res. No. 40-A by a vote of six in the affirmative, zero in the negative, with zero abstentions.

Int. No. 1786

By Council Member Miller, Kallos, Ayala and Louis (by request of the Mayor)

..Title

A Local Law to amend the administrative code of the city of New York, in relation to health insurance benefits for surviving family members of certain deceased employees of the department of sanitation

..Body

Be it enacted by the Council as follows:

Section 1. Subparagraph (i) of paragraph 2 of subdivision b of section 12-126 of the administrative code of the city of New York, as amended by local law number 122 for the year 2018, is amended to read as follows:

(i) Where the death of a member of the uniformed forces of the police or fire departments is or was the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of a uniformed member of the correction or sanitation departments has occurred while such employee was in active service as the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the child of such employee who is under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of an employee of the fire department of the city of New York who was serving in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or whose duties required the direct supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) is or was the natural and proximate result of an accident or injury sustained while in the performance of duty on or after September eleventh, two thousand one, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision.

            The mayor may, in his or her discretion, authorize the provision of such health insurance coverage for the surviving spouses, domestic partners and children of employees of the fleet services division of the police department who died on or after October first, nineteen hundred ninety-eight and before April thirtieth, nineteen hundred ninety-nine; the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division or the bridges division of the department of transportation who died on or after September first, two thousand five and before September twenty-eighth, two thousand five, or on or after April 3, 2018 and before April 5, 2018; the surviving spouses, domestic partners and children of employees of the bureau of wastewater treatment of the department of environmental protection who died on or after January eighth, two thousand nine and before January tenth, two thousand nine or the surviving spouses, domestic partners and children of employees of the bureau of water supply of such agency who died on or after February second, two thousand fourteen and before February fourth, two thousand fourteen; the surviving spouses, domestic partners and children of employees of the traffic enforcement district of the transportation bureau of the police department who died on or after November first, two thousand thirteen and before December first, two thousand thirteen; [and] the surviving spouses, domestic partners and children of employees of the sanitation enforcement division of the department of sanitation who died on or after July twenty-eighth, two thousand fifteen and before July thirtieth, two thousand fifteen; and the surviving spouses, domestic partners and children of employees of the bureau of motor equipment of the department of sanitation who died on or after September 23, 2019 and before September 25, 2019 as a natural and proximate result of an accident or injury sustained while in the performance of duty, subject to the same terms, conditions and limitations set forth in the section. Provided, however, and notwithstanding any other provision of law to the contrary, and solely for the purposes of this subparagraph, a member otherwise covered by this subparagraph shall be deemed to have died as the natural and proximate result of an accident or injury sustained while in the performance of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to 38 U.S.C. Chapter 43, and such member died while on active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

§ 2.  This local law shall take effect immediately, and shall be retroactive to and deemed to have been in full force and effect on and after September 23, 2019.

Int. No. 1810

By Council Member Miller, Louis and Ayala (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for surviving family members of certain deceased employees of the department of transportation

Be it enacted by the Council as follows:

Section 1.  Subparagraph (i) of paragraph 2 of subdivision b of section 12-126 of the administrative code of the city of New York, as amended by local law number 122 for the year 2018, is amended to read as follows:

                                          (i)Where the death of a member of the uniformed forces of the police or fire departments is or was the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of a uniformed member of the correction or sanitation departments has occurred while such employee was in active service as the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the child of such employee who is under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of an employee of the fire department of the city of New York who was serving in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or whose duties required the direct supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) is or was the natural and proximate result of an accident or injury sustained while in the performance of duty on or after September eleventh, two thousand one, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-six years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision.

                     The mayor may, in his or her discretion, authorize the provision of such health insurance coverage for the surviving spouses, domestic partners and children of employees of the fleet services division of the police department who died on or after October first, nineteen hundred ninety-eight and before April thirtieth, nineteen hundred ninety-nine; the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division or the bridges division of the department of transportation who died on or after September first, two thousand five and before September twenty-eighth, two thousand five, or on or after April 3, 2018 and before April 5, 2018 or on or after October 21, 2019 and before October 23, 2019; the surviving spouses, domestic partners and children of employees of the bureau of wastewater treatment of the department of environmental protection who died on or after January eighth, two thousand nine and before January tenth, two thousand nine or the surviving spouses, domestic partners and children of employees of the bureau of water supply of such agency who died on or after February second, two thousand fourteen and before February fourth, two thousand fourteen; the surviving spouses, domestic partners and children of employees of the traffic enforcement district of the transportation bureau of the police department who died on or after November first, two thousand thirteen and before December first, two thousand thirteen; and the surviving spouses, domestic partners and children of employees of the sanitation enforcement division of the department of sanitation who died on or after July twenty-eighth, two thousand fifteen and before July thirtieth, two thousand fifteen as a natural and proximate result of an accident or injury sustained while in the performance of duty, subject to the same terms, conditions and limitations set forth in the section. Provided, however, and notwithstanding any other provision of law to the contrary, and solely for the purposes of this subparagraph, a member otherwise covered by this subparagraph shall be deemed to have died as the natural and proximate result of an accident or injury sustained while in the performance of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died while on active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

§ 2.  This local law takes effect immediately and shall be retroactive to and deemed to have been in full force and effect on and after October 22, 2019.

Int. No. 1604-B

By Council Member Miller, Brannan, Kallos, Lander, Ayala, Louis and Vallone

..Title

A Local Law to amend the administrative code of the city of New York, in relation to reporting of workers’ compensation data

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision c of section 12-127 of chapter 1 of title 12 of the administrative code of the city of New York, as added by local law number 41 for the year 2004, is amended to read as follows:

c. (1) Definitions. For purposes of this subdivision, the term “occupational disease” has the same meaning as such term is defined in section 2 of the workers’ compensation law.

(2) Each agency shall keep a record of, and shall, as soon as practicable, transmit to the law department, any workers’ compensation claim filed by an employee, the subject of which concerns an injury sustained in the course of duty while such employee was employed at such agency. Such record shall include, but not be limited to, the following data:

(i) the name of the agency where such employee worked;

(ii) such employee’s title;

(iii) the date such employee or the city filed such claim with the appropriate office of the state of New York, if any;

(iv) the date the city began to make payment for such claim, or the date such claim was established by the appropriate state office and the date the city began to make payment for such claim pursuant to such establishment, if any;

(v) the date such injury occurred or occupational disease was contracted;

(vi) the location at which such injury occurred or occupational disease was contracted;

(vii) the nature of such injury or occupational disease, including, but not limited to, the circumstances [of such injury], the type or diagnosis [of such injury] and a description of how such injury occurred or such occupational disease was contracted;

(viii) the length of time such employee is unable to work due to such injury or occupational disease, if any; [and]

(ix) whether the employee was given modified assignment(s) or was transferred because of such injury or occupational disease and whether such employee suffered a loss of income or diminution of fringe benefits as a result of such transfer or modification; and

(x) a list of any expenses paid as a result of such claim, including, but not limited to, expenses relating to wage replacement, medical costs, administrative costs and any penalties.

[(2) Each agency shall transmit records gathered pursuant to paragraph (1) of subdivision c of this section, as soon as practicable, to the mayor of the city of New York.]

(3) Each agency shall collect and report to the law department, no later than February 15 of the year following the reporting year, the following information:

(i) the number of persons employed by such agency as of December 31 of the reporting year;

(ii) the number of persons employed in each job title as of December 31 of the reporting year;

(iii) the total, average and median number of days of lost time due to workers’ compensation injuries within each job title;

(iv) the total amount of wages and workers’ compensation paid for disability to injured persons within each job title;

(v) the total amount of medical expenses paid for diagnosis and treatment of injuries and occupational diseases suffered by persons within each job title;

(vi) the number and nature of injuries and occupational diseases suffered by agency employees within each job title;

(vii) the causal factor and nature of the injuries and occupational diseases suffered by agency employees as reported in subparagraph (vi) of this paragraph by category, including, but not limited to, lifting, assault, repetitive stress, infectious pathogen and chemical exposure;

(viii) the average and median number of days between the onset of disability as measured by the first day of lost time and the first date of payment; and

(ix) the total number of workers’ compensation claims.

[(3)] (4) The mayor [of the city of New York], in coordination with the law department, shall ensure that an annual report is prepared utilizing the [records] data received from each city agency pursuant to [paragraph (2)] paragraphs (2) and (3) of this subdivision [c of this section]. Such report shall be transmitted to the department of records and information services pursuant to section 1133 of the charter, the mayor, the comptroller, the public advocate and the speaker of the council [of the city of New York] by the first day of May, covering the previous calendar year. Such report shall include, but not be limited to:

(i) an analysis, with respect to each agency included in the report, of expenses paid as a result of workers’ compensation claims, including, but not limited to, expenses relating to wage replacement, medical costs, administrative costs and any penalties paid by an agency;

(ii) a list by agency of the cause, job title, number and cost of workers’ compensation claims;

(iii) a list of the occurrence of specific claims for each agency and for the city as a whole;

[(ii)] (iv) a list of the specific sites where injuries occurred or where occupational diseases were contracted for each agency and for the city as a whole;

[(iv) year-to-year comparisons] (v) a ten-year comparison of [information] data compiled pursuant to this paragraph; and

(vi) all data collected pursuant to paragraphs (2) and (3) of this subdivision.

(5) The law department may take appropriate steps to ensure the collection and reporting of information required pursuant to paragraphs (2) and (3) of this subdivision shall not violate any applicable federal, state or local law relating to privacy or confidentiality including, but not limited to, the confidentiality requirements of section 110-a of the workers’ compensation law.

(6) Each agency shall develop and implement an annual accident and illness prevention program designed to reduce injuries and illnesses identified in the report required pursuant to paragraph (4) of this subdivision. A listing and description of these programs shall be included in the annual report required by paragraph (4) of this subdivision and made available at each agency.

(7) No later than 90 days after submission of the report required pursuant to paragraph (4) of this subdivision, the mayor shall submit to the comptroller, the public advocate and the speaker a report on steps the city will take to develop programs to mitigate injury and illness based on the data collected pursuant to paragraphs (2) and (3) of this subdivision.

§ 2. This local law takes effect immediately; provided, however, that the report required by paragraph (4) of subdivision c of section 12-127 of the administrative code of the city of New York, as added by this local law, shall include data for the year 2021 and shall be submitted no later than May 1, 2022. Provided, further, that the report required by subdivision c of section 12-127 of the administrative code of the city of New York, as added by local law number 41 for the year 2004, shall be submitted for the years 2019 and 2020 prior to submission of the report required pursuant to this local law.

MWC (2017)/MMB (2018)/NJC (2019)

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Res. No. 40-A

..Title

Resolution calling upon the New York City Employees’ Retirement System to determine that members are disabled for purposes of disability pensions, if the New York State Workers’ Compensation Board determines that a member has a permanent partial disability, and the U.S. Social Security Administration determines that a member is disabled for substantial gainful (work) activity, and approved for social security disability benefits

..Body

By Council Members Cornegy, Koslowitz, Ayala and Louis

Whereas, When employees of the City of New York are injured on the job, they become eligible for various Federal, State and City benefits; and

Whereas, City employees who are injured in the course of their duties may be eligible for workers’ compensation benefits, Social Security disability benefits and disability retirement pension benefits; and

Whereas, The New York State Workers’ Compensation System, the U.S. Social Security Administration, and the New York City Employees’ Retirement System (NYCERS) all have thorough processes for determining whether a City employee injured at work is eligible for benefits; and

Whereas, NYCERS has the sole discretion to determine whether an employee injured in the course of their job is eligible for disability retirement; and

Whereas, As confirmed by case law from 2008, NYCERS has the sole independent authority to determine eligibility for disability retirement based on the system’s Medical Board’s analysis and determination; and

Whereas, It is possible for an injured worker to be classified as “disabled” by, and receive benefits from, the New York State Workers’ Compensation Board and the U.S. Social Security Administration, but be simultaneously denied a disability retirement by NYCERS; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Employees’ Retirement System to determine that members are disabled for purposes of disability pensions, if the New York State Workers Compensation Board determines that a member has a permanent partial disability, and the U.S. Social Security Administration determines that a member is disabled for substantial gainful (work) activity, and approved for social security disability benefits.

MWC/MMB

LS 9924/Res. 1458

LS 945

7/16/19; 2:42 p.m.

1. *See* NYC Admin. Code § 12-126(2). [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *See* NYC Admin. Code § 12-126(2)(i). [↑](#footnote-ref-3)
4. *Mathew “Fat Matt” Jakubowski*, *available at* <https://www.legacy.com/obituaries/siadvance/obituary.aspx?n=mathew-jakubowski-fatt-matt&pid=194011738&fhid=21929>. [↑](#footnote-ref-4)
5. Anabel Sosa, Georgett Roberts, and Natalie Musumeci, *City worker fatally run over by co-worker near Gracie Mansion*, NYPost, Oct. 22, 2019, *available at* <https://nypost.com/2019/10/22/city-worker-fatally-run-over-by-co-worker-near-gracie-mansion/>. [↑](#footnote-ref-5)
6. New York State Department of Labor. Workers’ Compensation Board. Workers. *Workers’ Compensation (on-the-Job Injury or Illness)*. *available at*: <http://www.wcb.ny.gov/content/main/onthejob/WCLawIntro.jsp>. [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)
8. *Id.* [↑](#footnote-ref-8)
9. City of New York. NYC Business. Licenses and Permits. *Workers’ Compensation Insurance: About*. *available at*: <https://www1.nyc.gov/nycbusiness/description/workers-compensation-insurance>. [↑](#footnote-ref-9)
10. Page i. City of New York. Law Department. Workers’ Compensation Division. *Annual Report of Workers’ Compensation Claims of New York City Employees for Calendar Year 2018.* [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. *Id.* at p. iv. [↑](#footnote-ref-12)