



## **LEGISLATIVE OUTREACH PROGRAM**

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Albany Strategic Advisors

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**FASNY LEGISLATIVE OUTREACH PROGRAM**

**FASNY SCORECARD – 2016**

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## VFBL EXPANED CANCER COVERAGE

<i>Scorecard Bill:</i>	VFBL Expanded Cancer Coverage
<i>Bill Numbers:</i>	Senate Bill Numbers: S3891 Assembly Bill Numbers: A5518
<i>Bill Sponsors:</i>	Senate Sponsor: Senator Nozzolio Assembly Sponsor: Assemblywoman Gunther
<i>Purpose of Bill(s):</i>	To expand coverage under VFBL for various cancers including internal organs and neurological systems (brain).
<i>Analysis, Background &amp; History</i>	<p>Cancer disabilities for firefighters exceed that of the average adult population. This is due in large part to smoke inhalation that occurs as a result of firefighting activities. This danger has been exacerbated by the proliferation of synthetic chemicals in plastics and upholstered furniture that emit toxic fumes at fire scenes.</p> <p>Section 11-c of the Volunteer Firefighters' Benefit Law (VFBL) was enacted to deal with diseases of the lung including cancer. Generally, this law creates the presumption that a volunteer's death or disability from lung disease was incurred in the volunteer's line of duty and that the death or disability was not caused by the firefighter's own negligence.</p> <p>Although VFBL provides coverage for diseases of the lung (e.g. cancer), it does not currently provide coverage for cancer of other parts of the body which may have been contracted through volunteer firefighting activity.</p> <p>For example, exposure to toxic fumes that emit from chemicals that are present in plastics and home furnishings may also cause cancer in an individual's esophagus, stomach, blood, or intestines. For these reasons, coverage under this law should be expanded to include any melanoma and any condition of cancer of the digestive, hematological, lymphatic, urinary, prostate, breast, reproductive and neurological (e.g. brain) systems.</p>
<i>Key Points:</i>	<ol style="list-style-type: none"><li>1. The rate of cancer for firefighters exceeds that of the average adult population. Firefighters are exposed to smoke and other dangerous fumes on a regular basis during firefighting activities.</li><li>2. The VFBL process can be complicated and drawn-out for a volunteer firefighter. By creating the presumption that a death or disability associated with certain cancers was incurred in the line of duty, this bill will simplify the VFBL process. It will also assist volunteers in getting the benefits they deserve.</li></ol>

## ILLEGAL ALTERATION OF A BUILDING

*Scorecard Bill:* Endangering the welfare of a first responder by making an illegal modification in multi-family dwellings

*Bill Numbers:* Senate Bill Number: S1188A  
Assembly Bill Number: A5539A

*Bill Sponsors:* Senate Sponsor: Senator Carlucci  
Assembly Sponsor: Assemblyman Zebrowski

*Purpose of Bill:* To establish the crimes of reckless endangerment of a peace officer, police officer, firefighter or emergency medical services professional in the first and second degrees.

*Background/History:* Building codes exist to ensure that residents, and particularly first responders and emergency personnel, are protected from the dangers posed by fire and inferior construction methods. While responding to any emergency is dangerous, this is particularly so when a building has been illegally altered, usually to make room for more occupants. Firefighters and other first responders are put at significant risk when they enter a structure anticipating a certain layout and instead must navigate around with walls that, don't belong, narrow passageways, blocked entrances or exits, or other structural changes; all while battling smoke and flames. Far too often, these situations result in serious injury to, or even the death of, firefighters or other emergency personnel.

This is exactly what happened on a January morning in 2005 in the Bronx, where an apartment fire turned into a deathtrap for several firefighters. Six New York City firefighters were forced to jump from a fourth floor window after they were trapped in the apartment by illegally constructed walls. Sadly, two firefighters were killed and several more were severely injured. While the building's owner and former were initially convicted of criminally negligent homicide, these convictions were overturned by a judge who ruled there was no evidence that they knew the apartments had been illegally converted.

More recently, in 2011, firefighters in Haverstraw, Rockland County, entered a smoke-filled single-family home and were confronted with its illegal conversion to a rooming house. A disoriented volunteer firefighter was running out of air and had to issue a mayday call to his fellow firefighters, who had to use a thermal imaging device to locate him in the home. Thankfully, he was found in time. The owner of the home had been served with a code violation just two weeks prior to the fire.

Illegally altered or subdivided structures can have very serious consequences for the occupants of these structures and particularly the first responders who might be called there in an emergency. Our first responders provide an invaluable service in keeping us safe and assisting us in emergencies, and when an unscrupulous individual directly places their health and safety at risk for the sake of their own profits they should be held accountable in the event that their illegal conduct results in injury or death to a firefighter or other emergency services personnel.

*Key Points:*

1. Uncaring landlords continue to maximize income by maximizing occupancy. Multi partitioned structures result creating extreme hazards for occupants and firefighters.
2. Fines are currently too low and are considered a cost of doing business. Criminal penalties will act as a real deterrent.
3. The crime currently does not fit the punishment. There are real lives at risk here. Not only are the first responders at risk, but the tenants and anyone else who is in the apartment for any period of time.

## **“FAIR PLAY” EMS BILLING**

- Scorecard Bill:* Ambulance Cost Recovery
- Bill Numbers:* Senate Bill Number: S1914  
Assembly Bill Number: A3721
- Bill Sponsors:* Senate Sponsor: Senator Little  
Assembly Sponsor: Assemblyman Brindisi
- Purpose of Bill:* To level the playing field by allowing authorities having control of a fire department or fire company that provides emergency medical services to establish fees and charges for such services.
- Analysis:* The General Municipal law prohibits any ambulance service, run as part of a fire department from charging a fee for ambulance services. Opinions of the Office of State Comptroller have underscored that prohibition. Because of the rapidly escalating number of ambulance calls, (in some localities as much as a 300 percent increase in the last few years), many areas of the state are experiencing radical cost shifts making it difficult, if not impossible, to provide volunteer ambulance services. This is especially true in seasonal areas where tourists create the need for coverage without contributing to the tax base. The practice of “soft billing” has sprung up to address this shortfall, but there are inherent dangers in sending such a bill including the potential to violate state and federal law, because once a billing procedure is put in place it must be done in accordance with applicable statutes and maintained on a fair and equitable basis for all those billed. Various software applications and billing companies claim the ability to maintain such systems but the ultimate responsibility and liability lies with the Fire Company or Ambulance Squad that engages in cost recovery. This bill addresses this problem by defining emergency medical service and allowing those authorities that have authorized the fire department to provide the volunteer EMS service to establish a schedule of fees in concert with the fire department and ambulance squad.
- Background/History:* While the number of fire calls has declined in the past five years the number of EMS responses has increased exponentially. This has caused a financial hardship in many fire departments and municipalities responsible for delivering this service. In most cases a fee may be charged with the notable exception of ambulance service that is provided as part of a volunteer fire department. The state legislature has sought to address this issue as far back as 1995 and has entertained legislation every year to the present to address this rapidly escalating problem. The bill died in the Local Governments Committees of both houses in 2013.
- Key Points:*
1. The bill enables towns, villages and local government entities to authorize fees and charges for EMS service, provided by ambulance squads that are part of a fire department. It does not mandate such fees.
  2. The fees are to be established by the municipality and fire company/ambulance squad involved.

3. The monies received by the municipality or local government entity authorizing the billing are to be disbursed in accordance with a written contract entered into between the authority having authorized the provision of services and the fire company itself.

4. Under current law, a fire company that provides ambulance services is the only entity that provides such services that is prohibited from billing for them.

## UPHOLSTERED FURNITURE FIRE STANDARDS

<i>Scorecard Bill:</i>	Flammability standards/soft furnishing
<i>Bill Numbers:</i>	Senate Bill Number: S5585 Assembly Bill Number: Has not been introduced for the 2015 session yet.
<i>Bill Sponsors:</i>	Senate Sponsor: Senator O'Mara Assembly Sponsor:
<i>Purpose of Bill:</i>	To prohibit the sale of upholstered furniture in New York that becomes fully involved in flames in less than twenty minutes from the time that it is exposed a heat source and prohibits the use of materials that produce toxic gasses that cause or are likely to cause cancer.
<i>Analysis &amp; Background:</i>	<p>Most modern furniture contains polyurethane foam, which is often referred to in the fire service as "solid gasoline" because of its highly combustible nature. For this reason, most foam is treated with flame retardant chemicals. Not only have these chemicals proven to be ineffective as a flame retardant, they also emit noxious vapors when ignited that cause several types of cancer. Because they burn at extremely high temperatures, soft furnishings containing polyurethane foam are a major cause for a building to reach "flashover," a condition wherein an entire room and its contents ignite. It is unsafe for firefighters to enter a space that has reached flashover and the structure is usually a total loss.</p> <p>By setting a twenty-minute-until-fully-involved standard, it is hoped to provide firefighters with sufficient time to arrive at a scene to save a building and possibly rescue persons trapped inside. Restrictions on fire retardant chemicals are necessary because of the toxic nature of chemicals that are presently used. This is a new bill.</p>
<i>Key Points:</i>	<ol style="list-style-type: none"><li>1. Firefighters require a window of time (at least 20 minutes) if they are to be provided with an opportunity to save lives and to prevent property from becoming a total loss.</li><li>2. Firefighters and other persons at the scene of a fire must be protected from the effects of noxious chemicals.</li></ol>



## INCREASE TO PERMANENT DISABILITY BENEFITS IN VFBL/VAWBL

*Scorecard Bill:* Increase Permanent Disability Benefits in VFBL/VAWBL

*Bill Numbers:* Senate Bill Numbers: S1000-A (not currently same-as)  
Assembly Bill Numbers: A5133 (not currently same-as)

*Bill Sponsors:* Senate Sponsor: Senator Funke  
Assembly Sponsor: Assemblyman Morelle

*Purpose of Bill(s):* To provide for a cost-of-living adjustment to benefits received by disabled volunteer firefighters in New York State.

*Analysis,  
Background &  
History*

Volunteer firefighters who are injured in the course of their volunteer service are eligible under State law to receive workers' compensation for their injuries. The State has enacted these benefits in recognition that these volunteers provide enormously important services to our communities.

Chapter 574 of the laws of 1998, raised the benefit level for all volunteer firefighters with permanent total disabilities to the maximum amount of \$400 a week regardless of their date of injury. Recognizing that inflationary forces make it increasingly difficult to subsist on a fixed income, this legislation institutes a cost-of-living adjustment for all disabled volunteer firefighters. Adequately compensating the men and women, who sacrifice their safety and their time to protect the safety of others, for their injuries incurred in the line of duty is the least we, as a State, can do to thank them for their selfless service.

This cost-of-living adjustment shall apply to weekly benefit periods after January 1, 2016.

*Key Points:*

1. Fighting fires is inherently dangerous and has a high risk of causing injury.
2. The disability benefit level has not been raised since 1998 and disabled volunteers on fixed incomes cannot keep up with their very basic necessities like food, housing and clothing.
3. This increase in permanent total disability payments to be more aligned with the cost of living is the very least we can do for our volunteers who risk their lives to keep our communities safe, at no cost to the communities.

**PERMIT EMPLOYMENT OF RETIRED FIREFIGHTERS AS FIRE SERVICE  
INSTRUCTORS**

*Scorecard Bill:* Permit employment of retired firefighters as fire service instructors

*Bill Numbers:* Senate Bill Numbers: S2747-A  
Assembly Bill Numbers: A4876-A

*Bill Sponsors:* Senate Sponsor: Senator Larkin  
Assembly Sponsor: Assemblywoman Gunther

*Purpose of Bill(s):* Authorizes retired firefighters to be employed as fire science instructors by career and technical education centers without reduction of their retirement benefits.

*Analysis,  
Background &  
History*

This bill would permit retired firefighters to receive their pension payments while earning compensation for employment by a career and technical education center as an instructor in a fire science program approved by the education department. Retired firefighters possess the training, skills, and experience which make them an excellent resource of knowledge for New York's future generation of firefighters. Permitting such highly qualified retired public employees to receive pension payments while being employed as fire science instructors would provide an incentive for those retirees to pass on the knowledge that was acquired throughout their years of service to a new generation of firefighters.

*Key Points:*

1. It is very typical in any career for a retired person to collect their pension but go back to work on a consulting basis to do education.
2. There is no one better to teach the next generation of firefighters than those who did the job their entire life.
3. Well trained firefighters reduce the risk of injury to themselves and the fellow firefighters who they are fighting fires alongside of.

## PROMPT PAYMENT OF VFBL DEATH BENEFITS

*Scorecard Bill:* Prompt payment of VFBL death benefits

*Bill Numbers:* Senate Bill Numbers: S888-A  
Assembly Bill Numbers: A1061-A

*Bill Sponsors:* Senate Sponsor: Senator Avella  
Assembly Sponsor: Assemblyman Cahill

*Purpose of Bill(s):* Establishes the payment of certain volunteer firefighter and volunteer ambulance worker death benefits shall be within ninety days of the filing of application to receive such death benefit.

*Analysis,  
Background &  
History*

Section 7 of the Volunteer Firefighters' Benefit Law (VFBL) provides a death benefit of \$50,000 for volunteer firefighters who die in the line of duty. Over the years, there have been a number of instances in which payment of the VFBL death benefits were delayed. These delays only cause significant hardship (financial and otherwise) for the beneficiary of the volunteer firefighter. It has been documented that in certain cases beneficiaries have waited over 6 months to receive payment of benefit. In at least one instance, a widow had to wait two and a half years before being compensated and almost lost her house as a result. This legislation will assist surviving spouses and beneficiaries through the claims process and mandate that payment of benefits be made available within 90 days upon the filing of application.

This legislation will also provide this same protection under Section 7 of the Volunteer Ambulance Workers' Benefit Law (VAWBL).

This measure will also encourage communication and coordination among the workers' compensation board, volunteer fire and ambulance service organizations, volunteer firefighters and ambulance workers and their families. While it is clear that some period of time is required in order to determine whether a death or injury occurred in the line of duty, excessive delays in payment only create significant frustration and anguish to the family of the volunteer firefighter. By including these minor additional parameters to the VFBL and VAWBL, this legislation will encourage communication among the interested parties and will ensure timely payment of allowable benefits.

*Key Points:*

1. Upon the passing of a loved one, planning for wake and funeral planning can come fast and can be overwhelming.
2. The last thing on the spouses mind should be how they are going to pay for all of it.
3. After serving their community for some many years as a volunteer, it is not fair to the spouse to be left struggling upon the death of their loved one.
4. Ensuring the death benefit is paid within 90 days will help alleviate at least the financial concern, and get them the money they are owed in a timely manner.