

**FASNY LEGISLATIVE OUTREACH PROGRAM  
FASNY SCORECARD - 2010**

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## CONSOLIDATION

*Scorecard Bill:* Consolidation

*Bill Numbers:* Senate Bill Number: \_\_\_\_\_  
Assembly Bill Number: \_\_\_\_\_

*Bill Sponsors:* \_\_\_\_\_  
\_\_\_\_\_

*Purpose of Bill:* This bill would amend Chapter 74 of the laws of 2009 changing the requirements for consolidating or dissolving Fire Districts. Chapter 74, which became effective March 21, 2010, and is known as the Government Reorganization and Citizen Empowerment Act, created several methodologies by which citizens and local governments can initiate dissolution or consolidation. This bill would change those requirements for Fire Districts recognizing the important difference volunteer time represents in the economic impact of such initiatives and the importance of communicating the cost savings created by donated volunteer time to the impacted taxpayer.

*Analysis:* The consolidation or dissolution of governmental units may result in savings to taxpayers by reducing structure or equipment. Currently this structure and equipment accounts for less than 1% of all local government expenditures. The true value of a Fire District to its residents is in the volunteer time contributed freely each year. If paid personnel were to replace the 130,000 Volunteer Fire and EMS responders in NYS it would cost more than 7 billion dollars annually. An economic fact finding component must be added to the procedures established by Chapter 74, so as to properly inform taxpayers of the true economic impact of citizen generated referendums. The "Citizen Empowerment Act" must be amended to add a "Citizen Enlightenment" component.

*Background/History:* Consolidation and reorganization legislation has been heralded as a method of creating cost savings for the taxpayer at the local government level. FASNY does not question the overarching need for consolidation initiated by the impacted taxpayer to be readily available as a viable local solution to rising taxes. Existing law creates a one size fits all approach to reorganization which ignores unique situations that render the reorganization ineffective and detrimental to the volunteer community's willingness to continue to serve the newly instituted entity. FASNY believes that any referendum on Volunteer Fire and EMS response issues should contain an information and economic impact step placed in the process before a vote of the populace involved.

*Key Points:*

1. Local decisions on whether or not to dissolve or consolidate Fire Districts should be made by informed (enlightened) citizens.
2. Community needs should be emphasized over county needs.
3. Public Hearings should precede all Town Board decisions and referendums.
4. The time for petitions to be gathered should have an end date.
5. Methodologies for starting the consolidation process should be the same as those for stopping the process.
6. A master plan for dissolution or consolidation of fire services should emanate from the communities involved and not be dictated by the State or County government.

## VFBL VAWBL REFORM

*Scorecard Bill:* VFBL VAWBL Reform

*Bill Numbers:* Senate Bill Number: \_\_\_\_\_  
Assembly Bill Number: \_\_\_\_\_

*Bill Sponsors:* \_\_\_\_\_  
\_\_\_\_\_

*Purpose of Bill:* To create parity between VFBL and VAWBL making these statutes consistent with the Worker Comp Reform Act enacted in 2007.

*Analysis:* Presently the flat weekly benefit level is \$400. This amount applies to Temporary Total, Permanent Total, and Permanent Partial (75% of greater) benefits. In addition, the lower benefits for Permanent Partial benefits for 50 – 75% and for 25 – 50 % are passed on percentages of this amount.

The flat amount for the VFBL and VAWBL weekly benefit has historically been pegged to the maximum weekly benefit for WC prior to the recent reform.

The WC reform has increased the maximum weekly benefit to \$500 per week and as of 7/1 of 08 to \$600. In 7/1 of 09 it will go to an automatically adjusted amount equal to 2/3 of the NYS average weekly wage.

*Background/History:* Historically, periodic acts of the Legislature have increased the benefits paid under VFBL and VAWBL creating a multi tiered system that under reimbursed those Volunteers suffering disabilities over a long period of time. This legislation is designed to address those inequities with a built in COLA or escalator clause. In addition the bill will address frivolous controversion of claims, duration of benefits, death benefits after remarriage of surviving spouse and the commission of fraud by claimants.

*Key Points:* The legislation will also attempt to address through negotiations, ongoing concerns of the Volunteer responders regarding:

Making Permanent the Heart Bill – to make permanent the five year temporary extension of legislation presuming heart related disabilities were caused by fire and EMS related activities.

Cost of Living Adjustment – to include in VFBL-VAWBL reform a cost of living escalator clause which does not exist in current law.

Cancer Impairment and Expanded Cancer Impairment – to extend or make permanent section 11c of the VFBL providing a presumption regarding diseases of the lung and to expand that presumption to include certain other disabilities related to firefighting duties.

Coverage for Non Jurisdictional Response – To expand VFBL VAWBL coverage for a responder outside their jurisdiction when first arriving on a scene and before being recognized by the jurisdictional commanding officer.

VFBL-VAWBL Coverage for an approved fitness program – change the definition of approved fitness program allowing for VFBL-VAWBL coverage in instances where a responder is participating in a fitness program developed by the Fire Department and approved by the Chief.

FASNY has traditionally pursued the abovementioned legislation in separate free-standing bills. These bills will continue to be pursued in concert with the omnibus VFBL VAWBL legislation.

## PERMANENT HEART BILL

<i>Scorecard Bill:</i>	Permanent Heart Bill
<i>Bill Numbers:</i>	Senate Bill Number: <u>S. 2769</u> Assembly Bill Number: <u>A. 5895</u>
<i>Bill Sponsors:</i>	Senate Sponsor: <u>Sen. Valesky</u> Assembly Sponsor: <u>M. of A. Magee</u>
<i>Purpose of Bill:</i>	To make Section 61 of the Volunteer Firefighter Benefit Law (VFBL) permanent. This section of law requires that a claim for heart-related benefits be paid unless substantial evidence indicates that an individual's volunteer firefighting activity did not cause the heart-related injury.
<i>Analysis, Background &amp; History</i>	<p>In 1957, the state of New York recognized the unusual risks taken by volunteer firefighters by establishing a system of benefits for volunteers that die or become injured in the line of duty. This system is referred to as the Volunteer Firefighter Benefit Law or VFBL.</p> <p>One of the significant risks faced by volunteer firefighters on a daily basis is the risk of injury or death from a heart attack. Volunteer firefighting produces levels of stress and strain that are well beyond the ordinary wear and tear of life. The high levels of stress and strain, together with the exposure to smoke and airborne chemicals, greatly increases the risk of heart attack for volunteer firefighters. To protect against this risk, the state adopted a "heart benefit" for volunteer firefighters in 1977. This benefit is found in Section 61 of the VFBL.</p> <p>Under Section 61 of the VFBL, a claim for death or disability of a volunteer firefighter must not be denied if the claimant provides evidence that establishes (1) that the volunteer had an ailment of the heart that caused the death or disability; and (2) that the ailment of the heart resulted from volunteer firefighting activity. Generally, the only way that such a claim can be denied is if the insurance carrier provides substantial evidence that the volunteer firefighting activity did not cause the heart ailment. Also, if a volunteer willfully causes the injury or is intoxicated while in the line of duty, then it is possible that a claim can be denied for those reasons as well.</p> <p>The original 1977 law expired in 1979, and then was re-authorized and extended every 2 years until 2005. In 2005, the Legislature re-authorized and extended the law for another 5 years (instead of the customary 2 years). This law is currently scheduled to expire in 2010. Although the State has extended this law without</p>

interruption since 1977, it is always possible that this crucial heart benefit can simply expire and disappear. This new legislation will prevent that from happening by making this heart benefit permanent. Because of the vital public services provided by volunteer firefighters and the risks undertaken by them, it is simply time to make this heart benefit permanent.

*Key Points:*

1. Volunteer firefighters undertake significant risks while serving their communities in the line of duty. One of these risks is the risk of injury or death due to heart attack. Unfortunately, the high levels of stress and strain associated with volunteer firefighting has made heart-related deaths and injuries too much of a reality.
2. The current heart benefit will expire in 2010. After more than 30 years of extensions, it is simply the right time to make this benefit permanent.

## **COST OF LIVING ADJUSTMENT**

- Scorecard Bill:* Cost of Living Adjustment
- Bill Numbers:* Senate Bill Number: S. 528  
Assembly Bill Number: A. 4444
- Bill Sponsors:* Senate Sponsor: Sen. Alesi  
Assembly Sponsor: M. of A. Morelle
- Purpose of Bill:* To increase the benefits received by totally disabled volunteer firefighters and ambulance workers.
- Analysis:* Volunteer firefighters and ambulance workers that are injured in the line of duty are eligible to receive compensation for their injuries. This compensation is provided through the Volunteer Firefighters Benefit Law (VFBL) and the Volunteer Ambulance Workers Benefit Law (VAWBL).
- Under current law, the benefit level for volunteer firefighters and ambulance workers that are totally and permanently disabled is four hundred dollars (\$400) per week. This benefit level has not been increased since 1998. Although the cost of living has increased over the past ten years, the benefit level for totally and permanently disabled volunteers has not.
- To begin to address this problem, this bill amends §8 of the VFBL. Specifically, this bill improves the benefit level for totally and permanently disabled volunteers by increasing it by the percent increase in the consumer price index. The amendment made in this bill will assist those volunteers faced with the difficulty of subsisting on a fixed disability income.
- Background/History:* The VFBL was created in 1957 in order to clarify and expand the coverage afforded to volunteer firefighters injured in the line of duty. The VFBL system is administered by the NYS Workers' Compensation Board and certain procedural provisions of the Workers' Compensation Law apply to VFBL claims. In 1988, the VAWBL was established to accomplish similar objectives for volunteer ambulance workers.
- The VFBL and VAWBL are amended from time to time in order to account for inflation and increases in the cost of living. It is estimated that the number of totally and permanently disabled firefighters and ambulance workers in NYS is less than forty (40). The last time the benefit for these volunteers was increased was in 1998.

In 2007, the NYS Legislature passed (and the Governor signed) workers' compensation reform legislation that increased benefits for injured workers. This workers' compensation reform legislation did not alter any of the benefit levels provided under VFBL and VAWBL.

In the 2009 Legislative Session, the Cost of Living Adjustment bill remained in the Senate and Assembly Local Government Committees.

*Key Points:*

1. The current disability benefit for volunteers that are totally and permanently disabled is just \$400 per week. This benefit has not been adjusted since 1998.
2. In 2007, the state of New York increased disability benefit levels provided under workers' compensation to certain workers. However, the benefit levels for volunteer firefighters and ambulance workers were not modified under this new law.
3. Updating the VFBL and VAWBL at this time will assist those volunteers faced with the difficulty of subsisting on a low, fixed disability benefit.

## CANCER IMPAIRMENT EXTENSION & EXPANSION

<i>Scorecard Bill:</i>	Cancer Impairment Extension & Expansion
<i>Bill Numbers:</i>	Senate Bill Numbers: <u>S. 5114, S. 4987</u> Assembly Bill Numbers: <u>A. 8516, A. 8298</u>
<i>Bill Sponsors:</i>	Senate Sponsor: <u>Sen. Foley</u> Assembly Sponsors: <u>M. of A. Russell, M. of A. John</u>
<i>Purpose of Bill(s):</i>	To extend the effective date of the law that provides a benefit to volunteer firefighters that are disabled (or that have died) as a result of lung disease; and to expand coverage under the law.
<i>Analysis, Background &amp; History:</i>	<p>Lung 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. Another contributing factor to this is the proliferation of synthetic chemicals that result in fumes from plastics and other synthetic materials at fire scenes.</p> <p>To address this problem for volunteer firefighters, the NYS Legislature passed (and the Governor signed) a law in 2006 that assists volunteer firefighters that are affected by diseases of the lung. This new law is Section 11-c of the Volunteer Firefighters' Benefit Law (VFBL). 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>The benefit provided by this law is seen most clearly in the VFBL claims process. Prior to this law, in a lung disease VFBL dispute, the burden of proving that the death or disability occurred in the line of duty was placed on the volunteer firefighter. Under this new law (Section 11-c of the VFBL), it is presumed that the death or disability occurred in the line of duty and the volunteer firefighter no longer has to provide proof of this. Consequently, in order to successfully deny such a VFBL claim, the insurer must provide evidence that proves that the death or disability was not incurred in the line of duty.</p> <p>In 2008, the benefits under Section 11-c of the VFBL were extended until June 30, 2010. This new bill will extend the effective date of this law so that this benefit will continue beyond 2010 for volunteer firefighters.</p> <p>Paid/career firefighters in NYS have had this benefit since 2002 and it has been extended a number of times since then.</p>

In addition, exposure to smoke and toxic fumes creates greater risks of cancer in other parts of the body as well. For example, exposure to smoke and fumes through volunteer firefighting 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 cancer of the digestive, hematological, lymphatic, urinary and prostate systems.

*Key Points:*

1. The rate of lung disease 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.
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 lung disease was incurred in the line of duty, this new bill will simplify the VFBL process. It will also assist volunteers in getting the benefits they deserve.
3. Paid firefighters have enjoyed the benefit of this lung disease presumption since 2002.

## COVERAGE FOR NON-JURISDICTIONAL INTERVENTION

*Scorecard Bill:* Coverage for non-jurisdictional intervention

*Bill Numbers:* Senate Bill Number: \_\_\_\_\_  
Assembly Bill Number: A. 7482

*Bill Sponsors:* Senate Sponsor: \_\_\_\_\_  
Assembly Sponsor: M. of A. Galef

*Purpose of Bill:* To add certain activities to the duties and activities for which benefits shall be paid under the volunteer firefighters' benefits law and volunteer ambulance workers' law. These additional activities would include medical assistance rendered while a volunteer firefighter or volunteer ambulance worker is outside of his or her jurisdiction or area of responsibility.

*Analysis:* This legislation is designed to provide "good samaritan" coverage to volunteer firefighter and ambulance workers who provide assistance while out of their specific jurisdiction. The bill would promote the delivery of assistance by trained personnel, without fear of lawsuit; ultimately offering more protection for the citizens of New York.

It is in a volunteer firefighter or ambulance workers nature to stop and help whenever and wherever they encounter accident victims. By offering firefighters and EMS personnel coverage under the volunteer firefighters' benefit law and volunteer ambulance workers' law, assistance at emergencies (regardless of the accident location or whether they are off duty or not) would be encouraged.

Under the current law, coverage is not provided to EMS responders who are out of area and there is a disincentive to assist in an emergency situation because of the inherent liability involved.

This bill would add a new paragraph q to subdivision one of section 5 of the volunteer firefighters' benefit law, as well as the volunteer ambulance workers' benefit law, to provide that a volunteer firefighter or ambulance worker, in the event they assist in emergency response while the volunteer worker is at the scene of a fire or accident that is located outside the jurisdiction or area of responsibility of that volunteer, shall be entitled to the same benefits as if they had been on duty or in their jurisdiction.

*Background/History:* Over the past decade, there have been countless examples of volunteers acting as a good samaritan that have been injured at the scene of an accident/fire scene, rescue situation or EMS transport

of a victim to a hospital. These situations multiply exponentially during the summer, particularly in high tourist areas of the state. Volunteers are highly trained first responders. Timely response to those injured greatly reduces the likelihood of serious ramifications, particularly in heart attack and stroke victims. It is important that good samaritan response by trained personnel be encouraged for the safety of New York State citizens. To hold these first responders “harmless” in such situations is the right thing to do for the physical well-being and safety of the citizens of this state.

*Key Points:*

1. First response is only as good as the ability of trained personnel.
2. Volunteer Fire & EMS personnel are trained and frequently available outside their area of jurisdiction.
3. In this era of enhanced mutual aid, it makes sense to use trained personnel to respond regardless of where they may be in order to address time sensitive emergency situations.
4. Litigation and liability have become the enemy for the “good samaritan” responses. While this potential liability has been an issue for all professionals, the citizens of this state have a right to unfiltered assistance in times of extreme need. Volunteers are ready and willing to intervene when out of their area, but need the assurance that they are protected by VFBL if they are injured in the process.

## VFBL COVERAGE FOR APPROVED FITNESS PROGRAM

*Scorecard Bill:* Extend VFBL Benefits for physical fitness

*Bill Numbers:* Senate Bill Number: \_\_\_\_\_  
Assembly Bill Number: \_\_\_\_\_

*Bill Sponsors:* Senate Sponsor: \_\_\_\_\_  
Assembly Sponsor: \_\_\_\_\_

*Purpose of Bill:* To expand benefits to include injuries sustained while participating in an approved physical fitness program.

*Analysis:*

Current law provides coverage for volunteers participating in a physical fitness program. It stipulates that the individual is covered for injuries sustained while supervising or being instructed or participating in a supervised program for the purpose of maintaining performance of their duties as firefighters. The statute has been construed to mean that unsupervised participation in an otherwise approved program would possibly not be covered.

The language is broad, even covering travel to and from such an event, but references a “supervised physical fitness class” which the bill is designed to redefine as an approved program whether it is supervised or unsupervised

*Background/History:*

Physical fitness programs and the awareness for integrating them into the Volunteer training regime has evolved significantly since the statute initially provided for coverage under supervised circumstances. Volunteers and the general public have become accustomed to participating in approved training programs without the need for active supervision. The imperative need for fitness in order to perform the duties of a firefighter or EMS responder has become paramount.

This legislation removes the emphasis on supervision and places it on an approved program. Volunteer responders must have an annual physical. Those that pass that physical are deemed fit to respond. “Fit to respond” should also mean fit to participate in an approved fitness program.

*Key Points:*

1. To exclude coverage for injuries sustained while participating in approved fitness programs is counterproductive. If a volunteer is medically certified as fit for duty and is deemed active by the Chief that volunteer should be encouraged to participate in a regular approved fitness program.

2. Fitness programs must meet the schedule of today's volunteer. In more than ten years since VFBL was amended to allow for coverage in a supervised setting technology and equipment has evolved and it is now commonplace for exercise and fitness programs to be self-initiated and to follow approved practices that do not require supervision. If the program has been reviewed and participation is documented it need not depend on a dated and vague restrictions that render it non applicable and unresponsive to today's volunteer.

## HEALTH INSURANCE CLARIFICATION

*Scorecard Bill:* Health Insurance Clarification

*Bill Numbers:* Senate Bill Number: S. 5111  
Assembly Bill Number: A. 8215

*Bill Sponsors:* Senate Sponsor: Sen. Breslin  
Assembly Sponsor: M. of A. Destito

*Purpose of Bill:* To amend the recently enacted volunteer firefighter health insurance law to clarify the requirements of the local municipalities and the administration of benefits.

*Analysis, Background & History:* According to the National Volunteer Fire Council (NVFC), the number of volunteers in the United States has dropped over 10% in the last 20 years. This trend is even worse in New York. According to the New York State Office of Fire Prevention and Control (OFPC), there are now less than 100,000 volunteer firefighters in the state – this represents a decline of nearly 20% in the last 10 years. The number of volunteer ambulance workers is declining at a similar rate. These figures are even more troubling with the realization that fire protection for most of New York’s geographic area is provided by the volunteer fire service.

In order to maintain a satisfactory level of fire protection service, additional incentives are required to retain existing volunteers and recruit new volunteers. Because the cost of health insurance is so high for volunteers, access to lower cost health insurance is one such incentive.

In response to these circumstances, New York enacted a law in 2008 that allows volunteer firefighters and ambulance workers to participate in the health insurance program offered by the volunteer’s municipality. This new law took effect January 17, 2009.

In general, the law provides a municipality with the ability to add volunteer firefighters and ambulance workers to its health insurance plan. Under the law, coverage is available to a volunteer and his or her family. Payment for the health insurance coverage is the responsibility of the volunteer. It is anticipated that this law, when implemented, will provide volunteers with a health insurance option that is less expensive than the health insurance plans available in the private market.

In order to facilitate implementation of this new law, a number of clarifying amendments are being considered. These amendments include provisions to clarify (and possibly expand) the types of health insurance plans that may be offered. For example, some municipalities offer health insurance through the NYS Health Insurance Program (NYSHIP) - the amendments will address eligibility for the NYSHIP program. The clarifying amendments may also include provisions that clarify the role and requirements for municipalities and fire companies (e.g. collection of premium, scenarios involving multi-jurisdictional coverage areas, etc.).

Because the effectiveness of this law will depend on successful interaction and understanding between the municipality and the volunteers, the clarifying amendments are necessary. These amendments will make it easier for municipalities to offer this health insurance benefit to its volunteers. Once implemented by a municipality, this law will provide an affordable health insurance option to the volunteer firefighter and ambulance worker. The availability of affordable health insurance coverage will entice existing volunteers to remain active and it will attract new and younger recruits.

*Key Points:*

1. Most fire protection service in NYS is provided by volunteer firefighters. However, the number of volunteer firefighters and ambulance workers in NYS is declining - and the call volume is increasing.
2. Many volunteers do not have access to affordable health insurance coverage. Access to lower cost health insurance will help maintain and attract volunteers.
3. A new law enacted in 2008 allows a municipality to add volunteer firefighters and ambulance workers to its health insurance plan. Under this law, payment for the health insurance coverage is the responsibility of the volunteer. Therefore, there are no negative financial implications to the municipality or the State.
4. The effectiveness of this law will depend on successful interaction and understanding between the municipality and the volunteers. Therefore, to make implementation of the law easier, clarifying amendments are necessary. Implementation of this law will greatly assist in retaining existing volunteers and attracting new recruits.

## **FASNY NEW YORK STATE BUDGET ISSUE**

### **Emergency Services Low Interest Loan Fund**

#### *Background & Analysis:*

The Emergency Services Low Interest Loan Fund, commonly referred to as the “Revolving Loan Fund”, was established in 1994. The Revolving Loan Fund is designed to make low interest loans to cities, villages, fire districts, counties and towns to acquire, upgrade and improve eligible fire facilities, fire apparatus and equipment.

The Emergency Services Loan Board met for the first time in October 1995. Because of a lack of funding and certain rules governing the application process, the Revolving Loan Fund got off to a slow start, but by 1999, 130 loans had been approved totaling \$11.5 million dollars. The average loan for that period was slightly more than \$88,000.

In the years 2000 and 2001, the number of loans approved remained essentially the same but the average dollar amount for each loan rose to more than \$100,000. However, funding for the program continued to be an issue. In fact, in fiscal year 2001-2002, the NYS Budget did not contain an appropriation for the Revolving Loan Fund. After fiscal year 2001-02, the State began to direct \$1.5 million dollars from the cellular-911 surcharge fund into the Revolving Loan Fund each year.

For the past several years, the State’s budget contained a \$4.1 million appropriation for the Revolving Loan Fund – this includes the additional \$1.5 million from the cellular-911 surcharge. For a while this funding mechanism worked. However, over time it became clear that the funding level was not quite enough to make the Revolving Loan Fund truly self-sustaining. Although the funding was enough to meet loan demand, it was not enough to accommodate new changes to the program.

The statute authorizing the Revolving Loan Fund has been amended several times since 1994 and these changes necessitate a review of this funding methodology. More specifically, over the last four years, the legislature amended the law to authorize loans to construct live fire training centers, increased the allowable dollar amounts for the loans, reduced the loan applicant share ratio from 50% to 25%, and directed that priority be given to an application from more than one department for shared equipment. Although these changes are positive, they do place an additional strain on the Revolving Loan Fund. Consequently, additional funds for the Revolving Loan Fund are required.

To date, over 340 loans have been approved totaling over \$38 million dollars. These loans are being paid down and the money is re-circulated. Since the inception of the program, not one default has been recorded. The emergency services community depends more and more on these loans in order to purchase what has become very expensive equipment. For example, the cost to equip an interior firefighter with the most basic personal protection equipment is approximately \$2000 – this does not include the cost of a required self-contained breathing apparatus which costs another \$3800. The cost of the most basic ambulance vehicle is as much as \$200,000 and to equip that vehicle with Advanced Life Support systems would cost another \$100,000. With respect to fire

engines, the cost of a basic model can be as much as \$350,000. The days of financing this type of apparatus and equipment with chicken barbecues and bake sales is long gone.

Given the continuing popularity of the Revolving Loan Fund and the recent legislative changes to it, additional funding for the Revolving Loan Fund is needed. Additional funding will help maintain the high level of fire and EMS protection service that is provided in the state.

## HIV SOURCE PATIENT TESTING

- Scorecard Bill:* Source patient testing (HIV)
- Bill Numbers:* Senate Bill Number: S. 3293  
Assembly Bill Number: A. 7610
- Bill Sponsors:* Senate Sponsor: Sen. Duane  
Assembly Sponsor: M. of A. Gottfried
- Purpose of Bill:* This bill revises the informed consent requirements associated with HIV/AIDS testing and updates testing requirements and counseling information to protect health care workers and emergency responders.
- Analysis:* This legislation is designed to provide appropriate information in situations where a volunteer has been involved in a significant exposure, which creates a significant risk of contracting HIV infection. Anonymous testing will be allowed under controlled circumstances and the results of the source patient test but not the patient's identity would be disclosed to the volunteer's medical representative solely for the purpose of making appropriate decisions regarding post-exposure medical treatment. The results of the HIV test of the source person would not be disclosed to the source person or placed in the source person's medical record.
- Background/History:* New York State had observed the reporting requirements of Federal legislation (Subtitle B known as Ryan White) but through an oversight, the portion of Federal law that mandated that source patient test results be provided to the designated infection control officer of the responder involved in an exposure incident, was omitted from a reauthorization of the 2006 statute. This created a fall back to NYS DOH regulations that were thought to be less protective of the volunteer responder. In the 2008 Legislative Session a bill was introduced with the support of the Health Department at the urging of FASNY and the NYS Chiefs Association, which addresses the concerns of responder. Ryan-White reporting protocols and source patient testing provisions were recently re-enacted at the Federal level.
- Key Points:*
1. The Ryan White CARE Act, Subtitle B contained provisions for the notification of emergency response personnel exposed to infectious diseases. This bill tracks closely those protections applicable to HIV/Aids.
  2. The Ryan White protections for the emergency responder were inadvertently dropped from the Federal Statute during a 2006 reauthorization of funding mechanisms for the Act. They have recently been reinstated by Congress.

3. This bill remains viable as the NYS Department of Health has maintained slightly different requirements for HIV in New York. Other infectious diseases including TB, Hepatitis B, Diphtheria, Rabies and other blood born and air born pathogens have been readdressed at the Federal level.

4. Procedures are already in place at every Fire Department to have a designated officer who takes an active role in evaluating the exposure and is qualified to coordinate requests for infectious status of source patients through Hospitals and health care officials.

5. More than 80% of the State's geography is covered by volunteer Fire and EMS response. At a time when recruitment and retention of this volunteer work force is most critical, this legislation sends a message that the health and welfare of emergency responders is being recognized and protected.

## HAZARDOUS MATERIALS COST RECOVERY

- Scorecard Bill:* Hazardous Materials Cost Recovery
- Bill Numbers:* Senate Bill Number: S. 5113  
Assembly Bill Number: A. 2692-A
- Bill Sponsors:* Senate Sponsor: Sen. Foley  
Assembly Sponsor: M. of A. Sweeney
- Purpose of Bill:* To provide cost reimbursement to Fire Companies for costs associated with responding to spills of hazardous materials.
- Analysis:* While some counties have what is know as Local Emergency Planning Committees ( LEPC) that plan and prepare for hazardous materials emergencies, it is a voluntary group of individuals that come from the emergency response community as well as local business and industry and it's impact varies depending on locality. The primary focus of an LEPC is to develop an emergency response plan and to have a relationship with companies that store, use, and transport hazardous materials. These LEPC have set a precedent for cost recovery that this legislation can take down to the individual Fire Company level.
- Through networking, a Fire Company can determine the source of a spill and itemize the expendable material used in the clean up. The Fire Company then notifies the appropriate local government entity who will in turn bill the spiller not to exceed \$7500 per spill. The bill is to include only those materials used to remedy to spills that are mentioned in the legislation and is not to include costs of personnel, vehicles, or other durable equipment used in the response. The reimbursement goes directly to the local government entity and will be subject to rules and regulations describing forms to be used and an approval process under the State Fire Administrator.
- Background/History:* Currently, municipal corporations or fire districts that contract with or control fire companies do not have the authority to bill hazardous materials transporters for rapidly escalating spill response costs. These spills are local, the spiller is frequently known, and the costs for clean up, while relatively modest can become a financial drain for small village and independent fire companies that are contracting with municipalities for fire and hazardous materials response. Meanwhile, the costs of remediation materials such as Haz Mat suits, absorbent materials and containers, and detection supplies are increasing exponentially.

This legislation allows a fire department to itemize expendable materials used and to work with the appropriate local government entity to get reimbursement for these materials at a cost not to exceed \$7500 per incident.

*Key Points:*

1. Hazardous materials transporters should pay for their spill costs.
2. This bill limits a transporters exposure to \$7500 per spill.
3. Other sources of funding and resources to deal with spills will be developed by DEC, DOH and SOS along with SEMO and the State Fire Administrator.
4. A fire company frequently contracts with a local government entity for a set amount per year. Non-reimbursed spills erode that contract and are ultimately borne by the taxpayer.
5. Fire Districts establish a fire tax borne by local taxpayers to pay for these services. Taxpayers should not be subsidizing hazardous materials transporters.
6. Many heavily trafficked roads in rural areas are subject to haz-mat spills. Typically an independent fire company responding to that type of incident does not have to budget to deal with persistent spills.

## **BLUE LIGHT AND HIGHWAY SAFETY FOR RESPONDERS**

- Scorecard Bill:* Blue light use expanded
- Bill Numbers:* Senate Bill Number: S. 5593  
Assembly Bill Number: A. 8470
- Bill Sponsors:* Senate Sponsor: Sen. Aubertine  
Assembly Sponsor: M. of A. Gordon
- Purpose of Bill:* To allow for the use of the blue light for rear projection for all volunteer emergency response vehicles.
- Analysis:* Current law allows for one or more blue lights or combination of blue, red and /or white lights to be affixed to a police vehicle provided that they are displayed for rear projection only. Volunteer firefighters have long had the exclusive use of one blue light that was affixed to any motor vehicle owned by a volunteer member of a fire department or on a motor vehicle owned by a member of such person's family. The light was allowed to be displayed/projected in 360 degree fashion. Use of the light was prohibited in combination with red lights on all fire vehicles. This bill would extend the perceptual advantage attributed to the blue light in certain circumstances now enjoyed by police vehicles, to all Volunteer emergency vehicles. It allows the blue light use for rear projection purposes and leaves in place the exclusive use of the Blue Light by volunteers on personal vehicles to be projected in 360 degree fashion.
- Background/History:* In the 2005 legislative session it became evident through studies conducted by Ford Motor Company and the Florida Highway Patrol, that the perception-decision-response process in driving, especially at night favored the blue light over other colors particularly when approaching from the rear. Although Volunteers enjoyed the exclusive use of the Blue Light, historically it was to distinguish them in getting to the scene of a fire. Statistics showed that auto accident response was a serious threat in its own right taking the lives of fire and police alike. FASNY could not oppose the legislation allowing police to use the superior light because it would be contradictory for the Association to oppose a highway safety initiative for police responders. Today, this bill advances this concept for all volunteer response vehicles. It would allow the use of the Blue Light for rear projection purposes in the same manner currently afforded police vehicles.

*Key Points:*

1. The Blue Light is superior to other colors in determining how distant an object is from the driver, especially at night.
2. Police vehicles were given this safety measure by the NYS Legislature in 2005 on the premise that it would further enhance officer safety.
3. There is general confusion regarding the use of blue and other lights in combination as a result of the 2005 statute.
4. This legislation makes it clear that rear projection of the blue light is acceptable on all fire and EMS response vehicles and that the current statutory provisions creating a highway safety zone will be delineated by the use of blue, red and white lights by both police and fire vehicles.
5. Safety, especially in highway response situations, is of paramount importance to the volunteer response community. Volunteer Fire and EMS vehicles should be as conspicuous as any other vehicle when approached from the rear in at a response scene.

## SEX OFFENSE CONVICTIONS

<i>Scorecard Bill:</i>	Sex Offense Convictions
<i>Bill Numbers:</i>	Senate Bill Number: <u>S. 3658</u> Assembly Bill Number: <u>A. 1277</u>
<i>Bill Sponsors:</i>	Senate Sponsor: <u>Sen. Valesky</u> Assembly Sponsor: <u>M. of A. Reilly</u>
<i>Purpose of Bill:</i>	To prohibit individuals that have been convicted of a sex offense from joining volunteer fire companies and volunteer ambulance companies.
<i>Analysis, Background &amp; History</i>	<p>Throughout its history, the volunteer fire service has always been an integral part of its local community. The reason for this is the unique nature of the relationship between the volunteer firefighter and his or her community. Throughout the state, the volunteer firefighter is viewed as a reliable and trustworthy public servant that gives and sacrifices for the community. In fact, many in the community, especially children and young adults, consider the volunteer firefighter to be a hero and a role model. Because of this, the volunteer firefighter interacts regularly with young individuals in our schools and in various other community activities.</p> <p>In order to provide the highest levels of service and effectiveness, it is essential that the volunteer fire service maintain the sense of trust and reliability that it has with the public. This legislation solidifies the trust between the volunteer fire service and the public by prohibiting convicted sex offenders from joining volunteer fire companies and volunteer ambulance companies.</p> <p>More specifically, this legislation amends the Section 10-1006 of the Village Law and Section 122-b of the General Municipal Law. Under these proposed amendments, an individual that has been convicted of a sex offense or an attempted sex offense is not eligible for membership in a volunteer fire company or volunteer ambulance companies. Also under this legislation, if a current volunteer is convicted of a sex offense or an attempted sex offense, then the membership of that volunteer is terminated immediately.</p> <p>With respect to the types of sex offenses covered by this legislation, the proposed amendments are very broad in their application. Under the legislation, all sex offenses listed in Article 130 of the Penal Law are included - this includes rape, sexual abuse, sexual misconduct, forcible touching and others.</p> <p>To assist fire company chiefs, this legislation also provides some guidance on process. For example, under this legislation an</p>

applicant for membership must authorize a convictions records search of his or her name. These searches would be conducted by the NYS Division of Criminal Justice Services. The legislation also sets forth requirements regarding notice, other communications, and appeals. These requirements are the same as the requirements currently in place for arson searches. In fact, this legislation is modeled after the arson searches law that was enacted in NYS in 1999.

This legislation is needed to maintain the trust between the volunteer fire service and those that they protect. It will also assist volunteer fire companies in selecting proper candidates for membership and in removing members that are risks.

*Key Points:*

1. The volunteer fire service is an integral part of society. Volunteers are viewed as role models and, because of that, they have a higher level of interaction with the public (particularly younger individuals) through school and community activity.
2. In order for the volunteer fire service to survive, there must be a high level of trust and reliability between the volunteers and those that they protect. This legislation will help solidify that trust, and promote a more effective volunteer fire service.

## AMBULANCE COST RECOVERY

- Scorecard Bill:* Ambulance Cost Recovery
- Bill Numbers:* Senate Bill Number: \_\_\_\_\_  
Assembly Bill Number: A. 4310
- Bill Sponsors:* Senate Sponsor: \_\_\_\_\_  
Assembly Sponsor: M. of A. Canestrari
- Purpose of Bill:* To provide for those authorities having control of a fire department, or fire company that provides emergency medical services, may establish fees and charges for 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 the provision of volunteer services difficult if not impossible. 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. The schedule of fees must to reported to the State Comptroller to be maintained and published annually. There is a “good Samaritan” waiver of liability for those volunteers who provide the service.
- Background/History:* While the number of fire calls has declined in the past five years the number of EMS responses within that fire department 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.

*Key Points:*

1. The bill authorizes fees and charges for EMS services, it does not mandate them.
2. The fees are to be established by the municipality and are to be filed with the Office of State Comptroller. This will create uniformity and standards for proper billing.
3. The monies received by the municipality of local government entity authorizing the billing are also to be reported to OSC. This will document the increased activity and where it is most prominent.
4. Where soft billing exists, the existence of a fee schedule will establish guidance and create parameters to be followed by participating billing companies.

## EQUITABLE TREATMENT OF LOSAP AWARDS

*Scorecard Bill:* Equitable Treatment of LOSAP Awards

*Bill Numbers:* Senate Bill Number: S. 5420  
Assembly Bill Number: A. 4450

*Bill Sponsors:* Senate Sponsor: Sen. Stachowski  
Assembly Sponsor: M. of A. Schimminger

*Purpose of Bill:* To treat proceeds of volunteer firefighter and ambulance worker length of service award programs in the same manner as pensions of state and municipal employees.

*Analysis:* Many volunteer firefighters and ambulance workers participate in their company's length of service award program. Although the awards paid under service award programs are modest, such programs are popular and well-liked among the volunteer fire service.

Under current statutes, an amount paid to a volunteer in a service award program is not specifically exempted from NYS personal income tax. Consequently, a volunteer's service award may be subject to NYS personal income tax. The tax treatment of service awards is different than the tax treatment of pensions for state and municipal employees. Under current statutes, pensions for state and municipal employees are exempt from NYS personal income tax.

This bill amends §612(c) of the NYS Tax Law. §612(c) of the Tax Law sets forth certain rules for determining taxable income in NYS. Specifically, this bill adds a new paragraph to §612(c) that exempts proceeds of service award programs from NYS personal income taxes. The provisions of this bill would apply to volunteer firefighter service award programs and volunteer ambulance worker service award programs. The tax benefit provided in this bill would apply to service award programs that are structured as defined benefit plans and those that are structured as defined contribution plans.

The amendment made in this bill is consistent with the NYS Department of Taxation and Finance position on this issue. In 2003, the Department issued a memorandum that addressed the taxability of service award program proceeds. Based on this memorandum, it is the Department's position that service award proceeds are not taxable in certain circumstances. In general, if the service award proceeds are paid after the age of 59 and a half and the proceeds are not in a lump sum, then the proceeds are not included as taxable income for NYS income tax purposes.

Although the tax analysis in the Department's memorandum is very complicated, the practical result is simple – the proceeds of many service award programs are not taxable income in NYS.

*Background/History:* The length of service award program, commonly referred to as the LOSAP program, was authorized in NYS in 1988 and went into effect in 1989. The LOSAP program is designed to assist volunteer recruitment and retention by providing individuals with a pension-like benefit based on the individual's length of volunteer firefighting or ambulance service. LOSAP programs are established by local government option and are administered at the local level. LOSAP programs are popular among the volunteer fire service. According to a 2001 study conducted by the NYS Office of State Comptroller, there are over 500 LOSAP programs throughout the state.

Although this bill amends the NYS Tax Law, the general rules for the LOSAP program are found in the NYS General Municipal Law. Article 11-A of the General Municipal Law relates to the service award program for volunteer firefighters. Article 11-AA relates to defined contribution service award programs for volunteer ambulance workers. Article 11-AAA relates to defined benefit service award programs for volunteer ambulance workers. Article 11-AAAA relates to supplemental service awards for volunteer firefighters and ambulance workers.

In the 2009 Legislative Session, this bill advanced to the Senate Finance Committee and the Assembly Ways & Means Committee.

*Key Points:*

1. Most fire protection service in NYS is provided by volunteer firefighters. However, the number of volunteer firefighters and ambulance workers in NYS is declining.
2. Incentives for volunteerism are required in order to maintain a high level of fire protection service in NYS. The LOSAP program is one such incentive for retaining existing volunteers and attracting new volunteers.
3. The awards provided under a LOSAP program are modest. Even though the amount of the awards are small, LOSAP programs are popular and well-liked among the volunteer fire service. And, since LOSAP programs are administered at the local level, there are no financial implications to the State.
4. Similar pension-like benefits available to others in NYS are already exempt from NYS personal income taxes under section 612 of the Tax Law.

5. The NYS Department of Taxation and Finance has already determined that the proceeds of many LOSAP programs are not taxable income for NYS income tax purposes.

## UTILITY RATE REDUCTION

<i>Scorecard Bill:</i>	Utility Rate Reduction
<i>Bill Numbers:</i>	Senate Bill Number: <u>S. 4879</u> Assembly Bill Number: <u>A. 8136</u>
<i>Bill Sponsors:</i>	Senate Sponsor: <u>Sen. Valesky</u> Assembly Sponsor: <u>M. of A. Gordon</u>
<i>Purpose of Bill:</i>	To require utility companies to charge volunteer fire companies and volunteer ambulance companies the same utility rates that are charged to residential utility customers.
<i>Analysis, Background &amp; History:</i>	<p>In NYS, volunteer fire companies and volunteer ambulance companies are not-for-profit organizations. Despite their not-for-profit status, under current law, public utility companies have the ability to charge volunteer fire companies and volunteer ambulance companies the commercial rate for utility service.</p> <p>Typically, the commercial utility rate is more expensive than the residential utility rate. Consequently, volunteer fire companies and volunteer ambulance are forced to struggle with higher utility costs as they work to provide essential services to their respective communities.</p> <p>To address this problem, this bill amends the NYS Public Service Law. Specifically, the bill adds new provisions to the Public Service Law that prohibits public utility companies from charging volunteer fire and ambulance companies a rate that is different than then rate charged to residential customers.</p> <p>The benefit provided under this bill is the same benefit currently enjoyed by veteran's organizations and religious organizations. Veteran's organizations have had this benefit for ten years now; religious organizations have had it for much longer than that.</p> <p>In the 2009 Legislative Session, this bill remained in the Senate Energy &amp; Telecommunications Committee and the Assembly Energy Committee.</p>
<i>Key Points:</i>	<ol style="list-style-type: none"><li>1. Volunteer fire companies and volunteer ambulance companies are not-for-profit organizations. Despite their not-for-profit status, these organizations must pay the higher commercial rate for utility service.</li><li>2. Utility costs are high. The commercial utility rate compounds the problems volunteer fire and ambulance companies face with meeting their utility costs.</li></ol>

3. Other not-for-profit organizations such as the veterans' organizations already have the benefit of the residential utility rate.

## MUNICIPAL DEPOSITS FOR CREDIT UNIONS

*Scorecard Bill:* Municipal Deposits for Credit Unions

*Bill Numbers:* Senate Bill Number: S. 717  
Assembly Bill Number: A. 4319

*Bill Sponsors:* Senate Sponsor: Sen. C. Johnson  
Assembly Sponsor: M. of A. Weisenberg

*Purpose of Bill:* To allow municipalities and Fire Districts to deposit monies in New York State Credit Unions.

*Analysis:* Under present law municipalities and government entities may only select commercial banks as depositories of municipal and government funds. This is an outdated restriction based on an old premise that only commercial banks could guarantee the security of such deposits. Today, credit unions have the same financial guarantees for depositors as that of commercial banks and it is becoming increasingly more important to keep the deposits of state and local government entities in our communities. FASNY supports the establishment of a more competitive market for local governments and particularly Fire Districts to invest their funds. Municipal deposits in credit unions help them do more for the underserved at a time when the mortgage market is threatened and all other forms of consumer credit have been adversely impacted.

Depository choice is important to localities. This legislation would get local government more involved in making choices as to where to deposit their funds and an opportunity to take advantage of the best rates. Allowing such deposits to be made with credit unions maximizes taxpayer dollars and keeps money local to be reinvested in consumer, mortgage and small business loans.

*Background/History:* While many different bills have been introduced over the past decade the banks have maintained a virtual monopoly over the deposit of state and local funds in New York State. Opposition from the large Commercial Banks has prevented any serious treatment of the issue by the legislature. Today, most Commercial Banks, once with a local footprint in our communities, are now larger regional banks and many times headquartered out of state, causing deposits to leave the state, while local municipalities face austere budgets and a non-competitive market for making their short- term investments. The law designating commercial banks as the only choice for municipalities and local government entities to deposit municipal funds predates the laws creating credit unions. Now credit unions, savings banks, and savings and loan

associations are heavily regulated and more than capable of ensuring the safety and soundness of municipal deposits.

*Key Points:*

1. Local governments and particularly Fire Districts should be able to make safe and sound choices about where they invest their money.
2. Municipalities would save by getting better rates of return on their tax dollars.
3. Credit unions pay property taxes, employer taxes and reinvest in their communities.
4. Credit unions are completely locally-owned and democratically controlled by their member-owners.
5. Credit unions not for profit status leads to the availability of lower cost loans for more than 4.5 million members in their communities.
6. Credit unions return all their profit to their members in the form of higher deposit rates, lower loan rates and low or no-cost service.
7. Credit unions would return local municipal deposits back to the community in the form of consumer, mortgage and small business loans.
8. Credit unions are more prevalent in underserved areas.
9. Credit unions are structured to service the smaller deposits of fire districts, villages, schools and libraries at more attractive rates.