S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

June 8, 2009

Introduced by M. of A. BOYLE, GIGLIO, HAWLEY, P. LOPEZ, REILICH, WALKER -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, the town law, the village law and the local finance law, in relation to consolidating or dissolving fire districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 13 of section 750 of the general municipal law, as added by a chapter of the laws of 2009, amending the general municipal law and other laws relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, is amended to read as follows:

13. "Local government entity" or "entity" shall mean a town, village, district, special improvement district or other improvement district, including, but not limited to, special districts created pursuant to articles [eleven,] twelve, twelve-A or thirteen of the town law, library districts, and other districts created by law; provided, however, that a local government entity shall not include school districts, city districts, FIRE DISTRICTS or special purpose districts created by counties under county law.

S 2. Subdivisions 1 and 2 of section 174 of the town law, as amended by a chapter of the laws of 2009, amending the town law and other laws relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, are amended to read as follows:

1. (A) Whenever a fire district shall be established, within ten days thereafter the town board of the town in which such district is located or, in the case of a district including territory in two or more towns, the town boards of such towns acting jointly by a majority vote of the members of each of such town boards, shall appoint five fire district

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

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commissioners and a treasurer for such district who shall hold their respective offices until the thirty-first day of December next succeeding; provided, however, that if such district be established subsequent to the first day of October in any year, the officers so appointed by the town board shall hold office until the thirty-first day of December of the next succeeding calendar year. A person so appointed as fire district commissioner shall not serve as chief or assistant chief of the fire district fire department after taking his oath of office as such commissioner and during the time he serves as such commissioner pursuant to such appointment. The town clerk shall immediately notify the appointees of their appointment and of the time and place which he shall fix for the organization meeting of the board of fire commissioners, which meeting shall be held not later than ten days after the appointment of said officers. At such organization meeting, the treasurer shall preside until such time as a chairman of the board of fire commissioners shall be chosen, but such treasurer shall not be entitled to a vote at such meeting. The board of fire commissioners shall appoint a secretary who shall hold office until the thirty-first day of December following the first election of fire district officers.

(B) WHENEVER TWO OR MORE FIRE DISTRICTS SHALL HAVE BEEN CONSOLIDATED, PURSUANT TO THIS ARTICLE, THE SEVERAL COMMISSIONERS OF EACH OF SUCH DISTRICTS SHALL CONSTITUTE THE BOARD OF FIRE COMMISSIONERS THEREOF AND THE SEVERAL TREASURERS OF SUCH DISTRICTS SHALL SERVE JOINTLY AS THE TREASURERS OF SUCH CONSOLIDATED DISTRICT, UNTIL THE THIRTY-FIRST DAY OF DECEMBER NEXT SUCCEEDING THE FIRST ELECTION OF FIRE DISTRICT COMMISSIONERS AND A TREASURER FOR SUCH CONSOLIDATED DISTRICT, HELD PURSUANT TO SUBDIVISION TWO OF THIS SECTION. THE TERMS OF OFFICE OF SUCH FIRE DISTRICT OFFICERS OF THE SEVERAL DISTRICTS SO CONSOLIDATED SHALL TERMINATE ON SAID THIRTY-FIRST DAY OF DECEMBER NEXT SUCCEEDING SUCH ELECTION.

2. The first election of fire district officers shall be held on the second Tuesday in December next succeeding the establishment or consolidation of such fire district; provided, however, that if such district be established OR CONSOLIDATED at a time subsequent to the first day of October in any year, the first election of fire district officers shall be held on the second Tuesday in the month of December of the next succeeding calendar year. At the first annual election of fire district officers, five district commissioners shall be elected and a treasurer. The person receiving the greatest number of votes for the office of fire commissioner shall be elected for a term of five years; the person receiving the second highest number of votes shall be elected for a term of four years; the person receiving the third highest number of votes shall be elected for a term of three years; the person receiving the fourth highest number of votes shall be elected for a term of two years and the person receiving the fifth highest number of votes shall be elected for a term of one year. In the event that two persons shall receive the same number of votes the terms of office shall be decided by lot. At each subsequent election of fire district officers a commissioner shall be elected for the full term of five years. In the event that two or more persons receive the same number of votes thereat, a special election between the tying parties receiving the highest number of votes to fill the vacancy shall be held within forty-five days after such election. The fire district treasurer shall be elected for a term of three years. The fire district secretary shall be appointed by the fire district commissioners and shall serve for a period of one year. The fire district secretary in office at the time such election is held shall immediately notify the officers elected of their election and that

an organization meeting will be held on the day specified in said notice, which shall not be later than the fifteenth day of January next ensuing. At such organization meeting, the treasurer shall preside until such time as a chairman of the board of fire commissioners shall be chosen, but such treasurer shall not be entitled to a vote at such meeting.

S 3. Subdivision 1 of section 176 of the town law, as amended by a chapter of the laws of 2009, amending the town law and other laws relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, is amended to read as follows:

1. Shall elect one of their members as chairman at the first meeting of fire commissioners after such district shall have been established OR CONSOLIDATED and annually thereafter at the first meeting thereof following each election of fire district officers. Such chairman, when present, shall preside at the meetings of the board of fire commissioners. In the absence of the chairman the other members may designate one of their members to act as temporary chairman.

S 4. Section 189-e of the town law, as amended by a chapter of the laws of 2009, amending the town law and other laws relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, is amended to read as follows:

S 189-e. Management of affairs of joint fire districts. Subject to the restrictions hereinafter established, the property and affairs of joint fire districts shall be under the management and control and in charge of a board of not less than three and not more than seven commissioners, appointed by the town board of the town or the town boards of the towns and the board of trustees of the village or the boards of trustees of the villages in joint session as hereinafter provided, or elected as provided in article eleven of this chapter, as may be determined by resolution adopted at the meeting for the establishment of the district in the same manner as the resolution for the establishment of the district is adopted[; or as may be determined by a joint consolidation agreement or elector initiated consolidation plan in accordance with article seventeen-A of the general municipal law]. In case it is determined that the commissioners shall be selected in the manner provided by article eleven of this chapter, the appointments as provided for in subdivision one of section one hundred seventy-four of this chapter shall be made by the town board, or, if the district includes territory in more than one town, by the town board of all of the towns at a joint session held at one location within the district and thereafter elections shall be held as provided in article eleven of this chapter except that the terms of the commissioners shall be as hereinafter provided. They shall be residents of such district and in case selection is made as provided in article eleven of this chapter there shall be no other residential requirement, but otherwise if there are an even number of commissioners not more than half at any time shall be residents of such village or villages and if there are an odd number, the number that are residents of such village or villages shall not exceed the number that are residents of such town or towns by more than one. First appointments hereunder shall be made in the following manner: If there be three commissioners, the term of one shall expire one year, of another two years and of the other three years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of three years from the date of the expiration of

the term of his predecessor. If there be four commissioners, the term of one shall expire one year, of another two years, of another three years, and of the other four years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of four years from the date of the expiration of the term of his predecessor. If there be five commissioners, the term of one shall expire one year, of another two years, of another three years, of another four years, and of the other five years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of five years from the date of the expiration of a term of his predecessor. If there be six commissioners, the term of one shall expire one year, of another two years, of another three years, of another four years, and of the remaining two, five years from the then next ensuing thirty-first day of December, and thereafter appointments shall be made for a term of five years from the date of the expiration of the term of each commissioner. If there be seven commissioners, the term of one shall expire one year, of another two years, of another three years, and of two of the others four years, and of the remaining two, five years from the then next ensuing thirty-first day of December, and thereafter appointments shall be made for a term of five years from the date of the expiration of the term of each commissioner. Such board of commissioners may employ necessary labor and assistants, at a compensation approved by such boards in joint session. Such commissioners shall receive no compensation for their services, but they and their employees shall be allowed and paid their necessary expenses, payable as expenses of the district.

S 5. Subdivision 2-a of section 2-254 of the village law, as amended by a chapter of the laws of 2009, amending the village law and other laws relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, is amended to read as follows:

2-a. If the limits of a village incorporated prior to the first day of April, nineteen hundred sixty-five are coterminous with the limits of, or wholly include the territory of, a district, the board of trustees of the village, by local law [or pursuant to the provisions of article seventeen-A of the general municipal law], may abolish any such district. In addition to any other notice required in connection with the adoption of such local law generally, thirty days' written notice of the hearing to be held in connection with such local law shall be given to the governing body of any such district and to the town clerk. A certified copy of any such local law shall be served upon or mailed to such governing body and clerk within five days following the adoption thereof. Except as otherwise provided in this section, the powers and duties of the governing body of a district so abolished and of all the officers of the district in connection therewith shall cease and determine upon the effective date of such local law and any board of commissioners, any office of commissioner and any other office of any such district shall also cease to exist at such time. No such local law shall become effective except on the last day of a fiscal year of the town or district, as the case may be.

S 6. Subdivision 21-a of section 2.00 of the local finance law, as amended by a chapter of the laws of 2009, amending the local finance law relating to the requirements for consolidating or dissolving certain local government entities, as proposed in legislative bills numbers S. 5661 and A. 8501, is amended to read as follows:

21-a. The term "full valuation", when used in relation to real property subject to taxation by a fire district, shall mean the valuation which is derived by dividing the assessed valuation of the real property concerned, as shown by the last completed assessment roll for the fire district, by the town equalization rate established by the authorized state officer or agency for such roll. Where, in the case of a newly-created fire district, there is no completed assessment roll for such fire district, full valuation shall be determined from the last completed assessment roll upon which the real property included within the district was assessed for town purposes prior to such creation. Where, after the boundaries of a fire district shall have been changed so that real property subject to taxation for fire district purposes shall have been thereby added to or subtracted from the area of the fire district, there is no completed assessment roll for the fire district as so changed, full valuation shall be determined from the last completed assessment roll upon which the real property included in the fire district after such change was assessed prior to such change for town or fire district purposes, as the case may be. For the purpose of contracting indebtedness or for the purpose of preparing debt statements, the assessment rolls referred to in this subdivision shall mean such assessment rolls as completed, verified and filed by the assessors. Where two or more fire districts consolidate to form one fire district PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THE TOWN LAW, the consolidated fire district, for the purpose of this subdivision, shall not be deemed a newly-created fire district, but shall be deemed an existing fire district and its full valuation shall be determined accordingly.

S 7. Notwithstanding the provisions of article 5 of the general construction law, the provisions of sections 172, 172-b, 172-d, 185, and 189-c of the town law shall be revived and be read as such provisions existed in law on the date immediately preceding the effective date of the chapter of the laws of 2009 amending the town law relating to the requirements for consolidating or dissolving certain local government entities as proposed in legislative bills numbers S. 5661 and A. 8501 repealing such sections.

S 8. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2009, amending the general municipal law and other laws relating to the requirements for consolidating or dissolving certain local government entities, and repealing certain provisions of the town law and the village law relating thereto as proposed in legislative bills numbers S. 5661 and A. 8501, takes effect.