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

9216

2009-2010 Regular Sessions

I N A S S E M B L Y

October 28, 2009

Introduced by M. of A. FIELDS -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, the town law, the village law, the general city law, the not-for-profit corporation law and the volunteer firefighters' benefit law, in relation to permitting volunteer firefighters to be eligible to serve in more than one volunteer fire department at one time

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

Section 1. The general municipal law is amended by adding a new section 209-k to read as follows:

S 209-K. VOLUNTEERING OF SERVICES TO ADDITIONAL FIRE COMPANIES. A VOLUNTEER FIREFIGHTER SHALL NOT BE PROHIBITED BY A FIRE COMPANY FROM VOLUNTEERING HIS OR HER SERVICES TO OTHER FIRE COMPANIES OUTSIDE OF THE AREA IN WHICH HE OR SHE REGULARLY SERVES.

S 2. Subdivision 10 of section 176-b of the town law, as added by chapter 699 of the laws of 1954, is amended to read as follows:

10. A person shall [not] be eligible to volunteer membership in more than one fire company at one time.

S 3. Subdivision 10 of section 10-1006 of the village law is amended to read as follows:

10. A person shall [not] be eligible to volunteer membership in more than one fire company at one time.

S 4. Subdivision 10 of section 16-a of the general city law, as added by chapter 699 of the laws of 1954, is amended to read as follows:

10. A person shall [not] be eligible to volunteer membership in more than one fire company at one time.

S 5. Subparagraph 3 of paragraph (c) of section 1402 of the not-for-profit corporation law, as amended by chapter 351 of the laws of 2000, is amended to read as follows:

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

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(3) In towns outside of villages and fire districts, the consent of a majority of the members of the town board to the formation of a fire corporation shall constitute an appointment of the persons named in the certificate of incorporation as town firemen. Thereafter, other eligible persons may be elected as members pursuant to the by-laws of the fire corporation, but the election of a member must be approved by the town board of each town which consented to the formation of the fire corporation. Such a person shall be a resident of the territory specified in the certificate of incorporation or of territory outside such boundaries which is afforded fire protection by the fire corporation pursuant to a contract for fire protection under which a cash consideration is received by the corporation or for which negotiations for renewal of such a contract are pending. The membership of any volunteer member shall terminate when he ceases to be a resident of such inside or outside territory, except that the corporation may authorize his continued membership where he notifies the secretary of the fire corporation (a) that he plans to change his residence to a territory which is not in such inside or outside territory, and (b) that by reason of his residence in the vicinity or his usual occupation he will be available to render active service as a volunteer fireman in either such inside or such outside territory. Voting for such authorization shall be pursuant to the by-laws. Such authorization shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Any membership so continued shall terminate when the member can no longer meet the requirements of this subparagraph. A person who cannot meet the residence requirements of this subparagraph may be elected to membership as a volunteer member if by reason of his residence in the vicinity or his usual occupation he will be available to render active service as a volunteer fireman in such inside or outside territory. Voting for such election shall be pursuant to the by-laws. Such election shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Such membership shall terminate when the member can no longer meet the requirements of this subparagraph. The election or continuance of any person as a member shall be deemed to have been approved by the town board pursuant to this subparagraph in the event that no action is taken by the town board, either approving or disapproving, within forty days in the case of residents of the territory specified in the certificate of incorporation or of outside contract territory, and within seventy days in the case of all others, after service of written notice of such election or continuance of membership shall have been made by the secretary of the corporation upon the town clerk, either personally or by mail. The membership of any volunteer fireman shall not be continued pursuant to this subparagraph, and persons who do not reside in the territory specified in the certificate of incorporation or in territory protected pursuant to a contract for fire protection shall not be elected to membership, if, by so doing, the percentage of such nonresident members in the fire corporation would exceed forty-five per centum of the actual membership thereof. Nonresidents of the territory specified in the certificate of incorporation whose volunteer membership has been authorized or continued pursuant to this subparagraph may be elected or appointed to any office in the fire corporation and shall have all the powers, duties, immunities, and privileges of resident volunteer members except a non-resident of this state whose membership has been continued pursuant to this subparagraph, or who was elected to membership pursuant to this subparagraph, shall not

be considered to be performing any firemanic duty, or to be engaged in any firemanic activity, as a member of the fire company while he is outside of this state unless and until he has first reported to the officer or fireman in command of his fire department, or any company, squad or other unit thereof, engaged or to be engaged in rendering service outside this state, or has received orders or authorization from an officer of the fire department or fire company to participate in or attend authorized activities outside of this state in the same manner as resident members of the fire company. [A person shall not be eligible to volunteer membership in any other fire corporation or fire company at one time.] The provisions of this subparagraph shall not be deemed to authorize the election or the continuance of any person as a member of the corporation if such election or continuance of membership shall be contrary to the by-laws, rules or regulations of the fire corporation.

S 6. Section 30 of the volunteer firefighters' benefit law is amended by adding a new subdivision 13 to read as follows:

13. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF DEATH OR INJURY RESULTS FROM THE PERFORMANCE OF DUTY WHERE A VOLUNTEER FIREFIGHTER IS A MEMBER OF MORE THAN ONE FIRE COMPANY PERMITTED UNDER SECTION TWO HUNDRED NINE-K OF THE GENERAL MUNICIPAL LAW, SUBDIVISION TEN OF SECTION ONE HUNDRED SEVENTY-SIX-B OF THE TOWN LAW, SUBDIVISION TEN OF SECTION 10-1006 OF THE VILLAGE LAW, SUBDIVISION TEN OF SECTION 16-A OF THE GENERAL CITY LAW OR THE FIRE COMPANY FOR WHOM THE VOLUNTEER FIREFIGHTER WAS ASSISTING WHILE SUCH INJURY OCCURRED SHALL BE RESPONSIBLE FOR THE PROVISION OF BENEFITS TO THE VOLUNTEER FIREFIGHTER,

B. NO MULTI-MEMBER VOLUNTEER FIREFIGHTER SHALL RECEIVE ADDITIONAL BENEFITS AS A RESULT OF HIS OR HER MEMBERSHIP IN ADDITIONAL FIRE DEPARTMENTS.

S 7. This act shall take effect immediately.