

5126

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to defining certain terms related to municipal corporations and municipal cooperative activities

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

1 Section 1. Subdivision b of section 119-n of the general municipal
2 law, as amended by chapter 681 of the laws of 1961, is amended to read
3 as follows:
4 b. The term "district" means a county or town improvement district for
5 which the county or town or towns in which such district is located is
6 or are required to pledge its or their faith and credit for the payment
7 of the principal of and interest on all indebtedness to be contracted
8 for the purposes of such district, AND AN AMBULANCE DISTRICT.
9 S 2. Section 119-n of the general municipal law is amended by adding
10 two new subdivisions f and g to read as follows:
11 F. THE TERM "FIRE CORPORATION" MEANS A NOT-FOR-PROFIT CORPORATION
12 FORMED UNDER SECTION FOURTEEN HUNDRED TWO OF THE NOT-FOR-PROFIT CORPO-
13 RATION LAW OR A VOLUNTEER FIRE COMPANY OR DEPARTMENT THAT HAS BEEN
14 INCORPORATED UNDER THE LAWS OF THE STATE OF NEW YORK.
15 G. THE TERM "VOLUNTEER FIRE COMPANY OR FIRE DEPARTMENT" MEANS A VOLUN-
16 TEER FIRE COMPANY OR FIRE DEPARTMENT AS DEFINED IN SECTION THREE OF THE
17 VOLUNTEER FIREFIGHTERS' BENEFITS LAW.
18 S 3. Subdivision 1, paragraphs a, b, c, d, h, and k of subdivision 2,
19 and subdivision 3 of section 119-o of the general municipal law, subdivi-
20 sion 1 as amended by chapter 623 of the laws of 1998, paragraph a of
21 subdivision 2 as amended by section 33 of part X of chapter 62 of the
22 laws of 2003, paragraphs b, c and h of subdivision 2 as amended by chap-
23 ter 681 of the laws of 1961, paragraphs d and k of subdivision 2 as
24 added by chapter 102 of the laws of 1960 and such subdivision as desig-

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

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1 nated by chapter 681 of the laws of 1961, and subdivision 3 as added by
2 chapter 605 of the laws of 1993, are amended to read as follows:

3 1. In addition to any other general or special powers vested in munic-
4 ipal corporations and districts for the performance of their respective
5 functions, powers or duties on an individual, cooperative, joint or
6 contract basis, municipal corporations, FIRE CORPORATIONS, AND VOLUNTEER
7 FIRE COMPANIES AND FIRE DEPARTMENTS, and districts shall have power to
8 enter into, amend, cancel and terminate agreements for the performance
9 among themselves or one for the other of their respective functions,
10 powers and duties on a cooperative or contract basis or for the
11 provision of a joint service or a joint water, sewage or drainage
12 project. Notwithstanding the foregoing grant of authority, the temporary
13 investment of moneys by more than one municipal corporation or district
14 pursuant to a municipal cooperation agreement which meets the definition
15 of "cooperative investment agreement" as set forth in article three-A of
16 this chapter shall be in compliance with all of the requirements of that
17 article. Any agreement entered into hereunder shall be approved by each
18 participating municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE
19 COMPANY, FIRE DEPARTMENT, or district by a majority vote of the voting
20 strength of its governing body. Where the authority of any municipal
21 corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT,
22 or district to perform by itself any function, power and duty or to
23 provide by itself any facility, service, activity, project or undertak-
24 ing or the financing thereof is, by any other general or special law,
25 subject to a public hearing, a mandatory or permissive referendum,
26 consents of governmental agencies, or other requirements applicable to
27 the making of contracts, then its right to participate in an agreement
28 hereunder shall be similarly conditioned.

29 a. A method or formula for equitably providing for and allocating
30 revenues and for equitably allocating and financing the capital and
31 operating costs, including payments to reserve funds authorized by law
32 and payments of principal and interest on obligations. Such method or
33 formula shall be established by the participating corporations, FIRE
34 COMPANIES, FIRE DEPARTMENTS or districts on a ratio of full valuations
35 of real property, or on the basis of the amount of services rendered or
36 to be rendered, or benefits received or conferred or to be received or
37 conferred, or on the increase in taxable assessed value attributable to
38 the function, facility, service, activity or project which is the
39 subject of an agreement, or on any other equitable basis, including the
40 levying of taxes or assessments to pay such costs on the entire area of
41 the corporation or district, or on a part thereof, which is benefited or
42 which receives the service.

43 b. The manner of employing, engaging, compensating, transferring or
44 discharging necessary personnel, subject, however, to the provisions of
45 the civil service law where applicable; the making of employer's
46 contributions for retirement, social security, health insurance, work-
47 men's compensation and other similar benefits; the approval of attend-
48 ances at conventions, conferences and schools for public officials and
49 the approval and payment of travel and other expenses incurred in the
50 performance of official duties; the bonding of designated officers and
51 employees; the filing of oaths of office and resignations consistent
52 with general laws applicable thereto; provisions that for specific
53 purposes designated officers or employees of the joint service or a
54 joint water, sewage or drainage project shall be deemed those of a spec-
55 ified participating corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPA-
56 NY, FIRE DEPARTMENT, or district; and provisions that personnel assigned

1 to a joint service or a joint water, sewage or drainage project shall
2 possess the same powers, duties, immunities and privileges they would
3 ordinarily possess (1) if they performed their duties only in the corpo-
4 ration, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, or
5 district by which they are employed or (2) if they were employed by the
6 corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT,
7 or district in which they are required to perform their duties.

8 c. Responsibility for the establishment, operation and maintenance of
9 the joint service or joint water, sewage or drainage project and the
10 officers responsible for the immediate supervision and control thereof;
11 the fixing and collecting of charges, rates, rents or fees, where appro-
12 priate, and the making and promulgation of necessary rules and regu-
13 lations and their enforcement by or with the assistance of the partic-
14 ipating corporations, FIRE COMPANIES, FIRE DEPARTMENTS and districts;
15 the conduct of hearings and the determination of issues raised thereat;
16 the making of necessary inspections; the keeping of records and the
17 making of reports including those required by article three of the
18 general municipal law; and limitations or restrictions on individual
19 participating corporations, FIRE COMPANIES, FIRE DEPARTMENTS and
20 districts from providing or undertaking similar or competing facilities,
21 services, activities, projects, or undertakings.

22 d. Purchasing and making of contracts subject to general laws applica-
23 ble to municipal corporations, FIRE CORPORATIONS, FIRE COMPANIES, FIRE
24 DEPARTMENTS and school districts.

25 h. Custody by the fiscal officer of one participant of any or all
26 moneys made available for expenditure for the joint service or a joint
27 water, sewage or drainage project and authorization to such fiscal offi-
28 cer to make payments on audit of the auditing official or body of the
29 participating corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY,
30 FIRE DEPARTMENT, or district of which he is the fiscal officer.

31 k. Adjudication of disputes or disagreements, the effects of failure
32 of participating corporations, FIRE COMPANIES, FIRE DEPARTMENTS or
33 districts to pay their shares of the costs and expenses and the rights
34 of the other participants in such cases.

35 3. Municipal corporations, FIRE COMPANIES, FIRE DEPARTMENTS OR
36 DISTRICTS are authorized as provided herein to adopt a mutual sharing
37 plan in order to undertake or receive any joint service on behalf of or
38 by another municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE
39 COMPANY, FIRE DEPARTMENT, OR DISTRICT which has adopted a mutual sharing
40 plan. Services provided pursuant to such mutual sharing plan shall be
41 subject to the alternative assignment of responsibility for certain
42 expenses and liabilities relating to such joint service as provided by
43 this subdivision.

44 a. A governing body may adopt a mutual sharing plan by local law,
45 resolution or bylaw to confer the benefits of this section upon the
46 employees of such municipal corporation, FIRE CORPORATION, VOLUNTEER
47 FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT and to be held liable for the
48 costs incurred in the event of participation in a joint service with
49 another municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY,
50 FIRE DEPARTMENT, OR DISTRICT which has adopted a mutual sharing plan.
51 Such plan shall describe the officers or employees authorized to under-
52 take or authorize receipt of a joint service pursuant to the mutual
53 sharing plan, any limitations upon joint services which may be rendered
54 or received pursuant to it, and how and when notice of joint services
55 rendered or received pursuant to it shall be provided to the governing
56 body.

1 b. Upon adoption of a mutual sharing plan, a municipal corporation,
2 FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT
3 may undertake or receive a joint service with another municipal corpo-
4 ration, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR
5 DISTRICT which has adopted a mutual sharing plan. The municipal corpo-
6 ration, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR
7 DISTRICT requesting the assistance of another municipal corporation,
8 FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT
9 pursuant to a mutual sharing plan shall be liable and responsible to the
10 assisting municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPA-
11 NY, FIRE DEPARTMENT, OR DISTRICT for any loss of or damage to equipment
12 employed in provision of such joint service or use of supplies upon
13 provision of such joint service. Each municipal corporation, FIRE CORPO-
14 RATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT shall be
15 liable for salaries and other compensation due to their own employees
16 for the time the employees are undertaking the joint service pursuant to
17 a mutual sharing plan, however the municipal corporation, FIRE CORPO-
18 RATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT receiving
19 the service shall reimburse the assisting municipal corporation, FIRE
20 CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT for
21 actual and necessary expenses upon written notice of such claim.

22 c. The authority to adopt a mutual sharing plan and to undertake joint
23 services pursuant to it shall be in addition to any other power or
24 authority conferred on municipal corporations, FIRE CORPORATIONS, FIRE
25 COMPANIES, FIRE DEPARTMENTS OR DISTRICTS pursuant to this article or any
26 other general or special law. A joint service may not be rendered pursu-
27 ant to a mutual sharing plan where another agreement has been entered
28 into pursuant to this section for such service between the assisting and
29 receiving municipal corporations, FIRE CORPORATIONS, FIRE COMPANIES,
30 FIRE DEPARTMENTS OR DISTRICTS.

31 S 4. This act shall take effect immediately.