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

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:

Section 1. Subdivision b of section 119-n of the general municipal law, as amended by chapter 681 of the laws of 1961, is amended to read as follows:

b. The term "district" means a county or town improvement district for which the county or town or towns in which such district is located is or are required to pledge its or their faith and credit for the payment of the principal of and interest on all indebtedness to be contracted for the purposes of such district, AND AN AMBULANCE DISTRICT.

S 2. Section 119-n of the general municipal law is amended by adding two new subdivisions f and g to read as follows:

F. THE TERM "FIRE CORPORATION" MEANS A NOT-FOR-PROFIT CORPORATION FORMED UNDER SECTION FOURTEEN HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW OR A VOLUNTEER FIRE COMPANY OR DEPARTMENT THAT HAS BEEN INCORPORATED UNDER THE LAWS OF THE STATE OF NEW YORK.

G. THE TERM "VOLUNTEER FIRE COMPANY OR FIRE DEPARTMENT" MEANS A VOLUNTEER FIRE COMPANY OR FIRE DEPARTMENT AS DEFINED IN SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFITS LAW.

S 3. Subdivision 1, paragraphs a, b, c, d, h, and k of subdivision 2, and subdivision 3 of section 119-o of the general municipal law, subdivision 1 as amended by chapter 623 of the laws of 1998, paragraph a of subdivision 2 as amended by section 33 of part X of chapter 62 of the laws of 2003, paragraphs b, c and h of subdivision 2 as amended by chapter 681 of the laws of 1961, paragraphs d and k of subdivision 2 as 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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nated by chapter 681 of the laws of 1961, and subdivision 3 as added by chapter 605 of the laws of 1993, are amended to read as follows:

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

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

b. The manner of employing, engaging, compensating, transferring or discharging necessary personnel, subject, however, to the provisions of the civil service law where applicable; the making of employer's contributions for retirement, social security, health insurance, workmen's compensation and other similar benefits; the approval of attendances at conventions, conferences and schools for public officials and the approval and payment of travel and other expenses incurred in the performance of official duties; the bonding of designated officers and employees; the filing of oaths of office and resignations consistent with general laws applicable thereto; provisions that for specific purposes designated officers or employees of the joint service or a joint water, sewage or drainage project shall be deemed those of a specified participating corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, or district; and provisions that personnel assigned

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

c. Responsibility for the establishment, operation and maintenance of the joint service or joint water, sewage or drainage project and the officers responsible for the immediate supervision and control thereof; the fixing and collecting of charges, rates, rents or fees, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating corporations, FIRE COMPANIES, FIRE DEPARTMENTS and districts; the conduct of hearings and the determination of issues raised thereat; the making of necessary inspections; the keeping of records and the making of reports including those required by article three of the general municipal law; and limitations or restrictions on individual participating corporations, FIRE COMPANIES, FIRE DEPARTMENTS and districts from providing or undertaking similar or competing facilities, services, activities, projects, or undertakings.

d. Purchasing and making of contracts subject to general laws applicable to municipal corporations, FIRE CORPORATIONS, FIRE COMPANIES, FIRE DEPARTMENTS and school districts.

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

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

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

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

b. Upon adoption of a mutual sharing plan, a municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT may undertake or receive a joint service with another municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT which has adopted a mutual sharing plan. The municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT requesting the assistance of another municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT pursuant to a mutual sharing plan shall be liable and responsible to the assisting municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT for any loss of or damage to equipment employed in provision of such joint service or use of supplies upon provision of such joint service. Each municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT shall be liable for salaries and other compensation due to their own employees for the time the employees are undertaking the joint service pursuant to a mutual sharing plan, however the municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT receiving the service shall reimburse the assisting municipal corporation, FIRE CORPORATION, VOLUNTEER FIRE COMPANY, FIRE DEPARTMENT, OR DISTRICT for actual and necessary expenses upon written notice of such claim.

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

S 4. This act shall take effect immediately.