

8776

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

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

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

15 S 2. Subdivisions 1 and 2 of section 174 of the town law, as amended  
16 by a chapter of the laws of 2009, amending the town law and other laws  
17 relating to the requirements for consolidating or dissolving certain  
18 local government entities, as proposed in legislative bills numbers S.  
19 5661 and A. 8501, are amended to read as follows:

20 1. (A) Whenever a fire district shall be established, within ten days  
21 thereafter the town board of the town in which such district is located  
22 or, in the case of a district including territory in two or more towns,  
23 the town boards of such towns acting jointly by a majority vote of the  
24 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.

LBD14227-01-9

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

20 (B) WHENEVER TWO OR MORE FIRE DISTRICTS SHALL HAVE BEEN CONSOLIDATED,  
21 PURSUANT TO THIS ARTICLE, THE SEVERAL COMMISSIONERS OF EACH OF SUCH  
22 DISTRICTS SHALL CONSTITUTE THE BOARD OF FIRE COMMISSIONERS THEREOF AND  
23 THE SEVERAL TREASURERS OF SUCH DISTRICTS SHALL SERVE JOINTLY AS THE  
24 TREASURERS OF SUCH CONSOLIDATED DISTRICT, UNTIL THE THIRTY-FIRST DAY OF  
25 DECEMBER NEXT SUCCEEDING THE FIRST ELECTION OF FIRE DISTRICT COMMISSION-  
26 ERS AND A TREASURER FOR SUCH CONSOLIDATED DISTRICT, HELD PURSUANT TO  
27 SUBDIVISION TWO OF THIS SECTION. THE TERMS OF OFFICE OF SUCH FIRE  
28 DISTRICT OFFICERS OF THE SEVERAL DISTRICTS SO CONSOLIDATED SHALL TERMI-  
29 NATE ON SAID THIRTY-FIRST DAY OF DECEMBER NEXT SUCCEEDING SUCH ELECTION.

30 2. The first election of fire district officers shall be held on the  
31 second Tuesday in December next succeeding the establishment or consol-  
32 idation of such fire district; provided, however, that if such district  
33 be established OR CONSOLIDATED at a time subsequent to the first day of  
34 October in any year, the first election of fire district officers shall  
35 be held on the second Tuesday in the month of December of the next  
36 succeeding calendar year. At the first annual election of fire district  
37 officers, five district commissioners shall be elected and a treasurer.  
38 The person receiving the greatest number of votes for the office of fire  
39 commissioner shall be elected for a term of five years; the person  
40 receiving the second highest number of votes shall be elected for a term  
41 of four years; the person receiving the third highest number of votes  
42 shall be elected for a term of three years; the person receiving the  
43 fourth highest number of votes shall be elected for a term of two years  
44 and the person receiving the fifth highest number of votes shall be  
45 elected for a term of one year. In the event that two persons shall  
46 receive the same number of votes the terms of office shall be decided by  
47 lot. At each subsequent election of fire district officers a commission-  
48 er shall be elected for the full term of five years. In the event that  
49 two or more persons receive the same number of votes thereat, a special  
50 election between the tying parties receiving the highest number of votes  
51 to fill the vacancy shall be held within forty-five days after such  
52 election. The fire district treasurer shall be elected for a term of  
53 three years. The fire district secretary shall be appointed by the fire  
54 district commissioners and shall serve for a period of one year. The  
55 fire district secretary in office at the time such election is held  
56 shall immediately notify the officers elected of their election and that

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

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

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

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

24 S 189-e. Management of affairs of joint fire districts. Subject to the  
25 restrictions hereinafter established, the property and affairs of joint  
26 fire districts shall be under the management and control and in charge  
27 of a board of not less than three and not more than seven commissioners,  
28 appointed by the town board of the town or the town boards of the towns  
29 and the board of trustees of the village or the boards of trustees of  
30 the villages in joint session as hereinafter provided, or elected as  
31 provided in article eleven of this chapter, as may be determined by  
32 resolution adopted at the meeting for the establishment of the district  
33 in the same manner as the resolution for the establishment of the  
34 district is adopted[; or as may be determined by a joint consolidation  
35 agreement or elector initiated consolidation plan in accordance with  
36 article seventeen-A of the general municipal law]. In case it is deter-  
37 mined that the commissioners shall be selected in the manner provided by  
38 article eleven of this chapter, the appointments as provided for in  
39 subdivision one of section one hundred seventy-four of this chapter  
40 shall be made by the town board, or, if the district includes territory  
41 in more than one town, by the town board of all of the towns at a joint  
42 session held at one location within the district and thereafter  
43 elections shall be held as provided in article eleven of this chapter  
44 except that the terms of the commissioners shall be as hereinafter  
45 provided. They shall be residents of such district and in case selection  
46 is made as provided in article eleven of this chapter there shall be no  
47 other residential requirement, but otherwise if there are an even number  
48 of commissioners not more than half at any time shall be residents of  
49 such village or villages and if there are an odd number, the number that  
50 are residents of such village or villages shall not exceed the number  
51 that are residents of such town or towns by more than one. First  
52 appointments hereunder shall be made in the following manner: If there  
53 be three commissioners, the term of one shall expire one year, of anothe-  
54 er two years and of the other three years from the then next ensuing  
55 thirty-first day of December, and thereafter one shall be appointed  
56 annually for a term of three years from the date of the expiration of

1 the term of his predecessor. If there be four commissioners, the term of  
2 one shall expire one year, of another two years, of another three years,  
3 and of the other four years from the then next ensuing thirty-first day  
4 of December, and thereafter one shall be appointed annually for a term  
5 of four years from the date of the expiration of the term of his prede-  
6 cessor. If there be five commissioners, the term of one shall expire one  
7 year, of another two years, of another three years, of another four  
8 years, and of the other five years from the then next ensuing thirty-  
9 first day of December, and thereafter one shall be appointed annually  
10 for a term of five years from the date of the expiration of a term of  
11 his predecessor. If there be six commissioners, the term of one shall  
12 expire one year, of another two years, of another three years, of anoth-  
13 er four years, and of the remaining two, five years from the then next  
14 ensuing thirty-first day of December, and thereafter appointments shall  
15 be made for a term of five years from the date of the expiration of the  
16 term of each commissioner. If there be seven commissioners, the term of  
17 one shall expire one year, of another two years, of another three years,  
18 and of two of the others four years, and of the remaining two, five  
19 years from the then next ensuing thirty-first day of December, and ther-  
20 eafter appointments shall be made for a term of five years from the date  
21 of the expiration of the term of each commissioner. Such board of  
22 commissioners may employ necessary labor and assistants, at a compen-  
23 sation approved by such boards in joint session. Such commissioners  
24 shall receive no compensation for their services, but they and their  
25 employees shall be allowed and paid their necessary expenses, payable as  
26 expenses of the district.

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

32 2-a. If the limits of a village incorporated prior to the first day of  
33 April, nineteen hundred sixty-five are coterminous with the limits of,  
34 or wholly include the territory of, a district, the board of trustees of  
35 the village, by local law [or pursuant to the provisions of article  
36 seventeen-A of the general municipal law], may abolish any such  
37 district. In addition to any other notice required in connection with  
38 the adoption of such local law generally, thirty days' written notice of  
39 the hearing to be held in connection with such local law shall be given  
40 to the governing body of any such district and to the town clerk. A  
41 certified copy of any such local law shall be served upon or mailed to  
42 such governing body and clerk within five days following the adoption  
43 thereof. Except as otherwise provided in this section, the powers and  
44 duties of the governing body of a district so abolished and of all the  
45 officers of the district in connection therewith shall cease and deter-  
46 mine upon the effective date of such local law and any board of commis-  
47 sioners, any office of commissioner and any other office of any such  
48 district shall also cease to exist at such time. No such local law shall  
49 become effective except on the last day of a fiscal year of the town or  
50 district, as the case may be.

51 S 6. Subdivision 21-a of section 2.00 of the local finance law, as  
52 amended by a chapter of the laws of 2009, amending the local finance law  
53 relating to the requirements for consolidating or dissolving certain  
54 local government entities, as proposed in legislative bills numbers S.  
55 5661 and A. 8501, is amended to read as follows:

1 21-a. The term "full valuation", when used in relation to real proper-  
2 ty subject to taxation by a fire district, shall mean the valuation  
3 which is derived by dividing the assessed valuation of the real property  
4 concerned, as shown by the last completed assessment roll for the fire  
5 district, by the town equalization rate established by the authorized  
6 state officer or agency for such roll. Where, in the case of a newly-  
7 created fire district, there is no completed assessment roll for such  
8 fire district, full valuation shall be determined from the last  
9 completed assessment roll upon which the real property included within  
10 the district was assessed for town purposes prior to such creation.  
11 Where, after the boundaries of a fire district shall have been changed  
12 so that real property subject to taxation for fire district purposes  
13 shall have been thereby added to or subtracted from the area of the fire  
14 district, there is no completed assessment roll for the fire district as  
15 so changed, full valuation shall be determined from the last completed  
16 assessment roll upon which the real property included in the fire  
17 district after such change was assessed prior to such change for town or  
18 fire district purposes, as the case may be. For the purpose of contract-  
19 ing indebtedness or for the purpose of preparing debt statements, the  
20 assessment rolls referred to in this subdivision shall mean such assess-  
21 ment rolls as completed, verified and filed by the assessors. Where two  
22 or more fire districts consolidate to form one fire district PURSUANT TO  
23 SECTION ONE HUNDRED SEVENTY-TWO OF THE TOWN LAW, the consolidated fire  
24 district, for the purpose of this subdivision, shall not be deemed a  
25 newly-created fire district, but shall be deemed an existing fire  
26 district and its full valuation shall be determined accordingly.

27 S 7. Notwithstanding the provisions of article 5 of the general  
28 construction law, the provisions of sections 172, 172-b, 172-d, 185, and  
29 189-c of the town law shall be revived and be read as such provisions  
30 existed in law on the date immediately preceding the effective date of  
31 the chapter of the laws of 2009 amending the town law relating to the  
32 requirements for consolidating or dissolving certain local government  
33 entities as proposed in legislative bills numbers S. 5661 and A. 8501  
34 repealing such sections.

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