

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:

1 Section 1. The general municipal law is amended by adding a new  
2 section 209-k to read as follows:  
3 S 209-K. VOLUNTEERING OF SERVICES TO ADDITIONAL FIRE COMPANIES. A  
4 VOLUNTEER FIREFIGHTER SHALL NOT BE PROHIBITED BY A FIRE COMPANY FROM  
5 VOLUNTEERING HIS OR HER SERVICES TO OTHER FIRE COMPANIES OUTSIDE OF THE  
6 AREA IN WHICH HE OR SHE REGULARLY SERVES.  
7 S 2. Subdivision 10 of section 176-b of the town law, as added by  
8 chapter 699 of the laws of 1954, is amended to read as follows:  
9 10. A person shall [not] be eligible to volunteer membership in more  
10 than one fire company at one time.  
11 S 3. Subdivision 10 of section 10-1006 of the village law is amended  
12 to read as follows:  
13 10. A person shall [not] be eligible to volunteer membership in more  
14 than one fire company at one time.  
15 S 4. Subdivision 10 of section 16-a of the general city law, as added  
16 by chapter 699 of the laws of 1954, is amended to read as follows:  
17 10. A person shall [not] be eligible to volunteer membership in more  
18 than one fire company at one time.  
19 S 5. Subparagraph 3 of paragraph (c) of section 1402 of the not-for-  
20 profit corporation law, as amended by chapter 351 of the laws of 2000,  
21 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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1 (3) In towns outside of villages and fire districts, the consent of a  
2 majority of the members of the town board to the formation of a fire  
3 corporation shall constitute an appointment of the persons named in the  
4 certificate of incorporation as town firemen. Thereafter, other eligible  
5 persons may be elected as members pursuant to the by-laws of the fire  
6 corporation, but the election of a member must be approved by the town  
7 board of each town which consented to the formation of the fire corpo-  
8 ration. Such a person shall be a resident of the territory specified in  
9 the certificate of incorporation or of territory outside such boundaries  
10 which is afforded fire protection by the fire corporation pursuant to a  
11 contract for fire protection under which a cash consideration is  
12 received by the corporation or for which negotiations for renewal of  
13 such a contract are pending. The membership of any volunteer member  
14 shall terminate when he ceases to be a resident of such inside or  
15 outside territory, except that the corporation may authorize his contin-  
16 ued membership where he notifies the secretary of the fire corporation  
17 (a) that he plans to change his residence to a territory which is not in  
18 such inside or outside territory, and (b) that by reason of his resi-  
19 dence in the vicinity or his usual occupation he will be available to  
20 render active service as a volunteer fireman in either such inside or  
21 such outside territory. Voting for such authorization shall be pursuant  
22 to the by-laws. Such authorization shall not become effective unless  
23 approved by resolution of the town board of each town which consented to  
24 the formation of the corporation. Any membership so continued shall  
25 terminate when the member can no longer meet the requirements of this  
26 subparagraph. A person who cannot meet the residence requirements of  
27 this subparagraph may be elected to membership as a volunteer member if  
28 by reason of his residence in the vicinity or his usual occupation he  
29 will be available to render active service as a volunteer fireman in  
30 such inside or outside territory. Voting for such election shall be  
31 pursuant to the by-laws. Such election shall not become effective unless  
32 approved by resolution of the town board of each town which consented to  
33 the formation of the corporation. Such membership shall terminate when  
34 the member can no longer meet the requirements of this subparagraph. The  
35 election or continuance of any person as a member shall be deemed to  
36 have been approved by the town board pursuant to this subparagraph in  
37 the event that no action is taken by the town board, either approving or  
38 disapproving, within forty days in the case of residents of the territo-  
39 ry specified in the certificate of incorporation or of outside contract  
40 territory, and within seventy days in the case of all others, after  
41 service of written notice of such election or continuance of membership  
42 shall have been made by the secretary of the corporation upon the town  
43 clerk, either personally or by mail. The membership of any volunteer  
44 fireman shall not be continued pursuant to this subparagraph, and  
45 persons who do not reside in the territory specified in the certificate  
46 of incorporation or in territory protected pursuant to a contract for  
47 fire protection shall not be elected to membership, if, by so doing, the  
48 percentage of such nonresident members in the fire corporation would  
49 exceed forty-five per centum of the actual membership thereof. Nonresi-  
50 dents of the territory specified in the certificate of incorporation  
51 whose volunteer membership has been authorized or continued pursuant to  
52 this subparagraph may be elected or appointed to any office in the fire  
53 corporation and shall have all the powers, duties, immunities, and priv-  
54 ileges of resident volunteer members except a non-resident of this state  
55 whose membership has been continued pursuant to this subparagraph, or  
56 who was elected to membership pursuant to this subparagraph, shall not

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

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

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

26 B. NO MULTI-MEMBER VOLUNTEER FIREFIGHTER SHALL RECEIVE ADDITIONAL  
27 BENEFITS AS A RESULT OF HIS OR HER MEMBERSHIP IN ADDITIONAL FIRE DEPART-  
28 MENTS.

29 S 7. This act shall take effect immediately.