

S. 4901

A. 7303

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

April 29, 2011

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

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

AN ACT to amend the village law, the town law, the general city law and the not-for-profit corporation law, in relation to recognition of volunteer members of fire companies as duly elected and approved members of such fire companies

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

1 Section 1. Legislative intent. This legislation is designed to update
2 certain provisions of the village law, the town law, the general city
3 law and the not-for-profit corporation law relating to recognition of
4 volunteer firefighters as duly elected or approved members of their
5 respective fire companies. Periodically, these provisions of law should
6 be updated to ensure that firefighters recently recognized as volunteers
7 are considered to be duly elected and approved members in their respec-
8 tive fire companies, notwithstanding any legal defect in the election or
9 approval process. This act updates the relevant statutory provisions and
10 ensures that more recently elected or approved volunteer members of fire
11 companies are recognized as duly elected or approved for all purposes in
12 law, including but not limited to coverage under the volunteer fire-
13 fighters' benefit law.

14 S 2. Paragraph 1 of subdivision 16 of section 10-1006 of the village
15 law, as amended by chapter 393 of the laws of 2003, is amended to read
16 as follows:

17 (1) who was recognized on and after the first day of July, nineteen
18 hundred fifty-four and prior to the first day of January, [two thousand
19 three] TWO THOUSAND ELEVEN, as a volunteer member of any fire company of

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

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1 a village subject to the provisions of this article by the board of
2 trustees or board of fire commissioners of the village or by the offi-
3 cers and members of his fire company, and

4 S 3. Paragraph 3 of subdivision 16 of section 10-1006 of the village
5 law, as amended by chapter 393 of the laws of 2003, is amended to read
6 as follows:

7 (3) who was, at the time of his election to membership, a resident of
8 the village or of territory outside the village which was afforded fire
9 protection by the fire department of the village, or any fire company
10 thereof, pursuant to a contract for fire protection, or who was a non-
11 resident who was elected to membership or who was continued as a member,
12 pursuant to the provisions of subdivisions five or six of this section,
13 shall for all purposes in law be considered to have been duly elected
14 and approved, or continued, as a member in such fire company as of the
15 date of such approval, if any, and, if none, then as of the date of such
16 election or, in the case of a continuance, as of the date of the
17 approval, if any, by the board of fire commissioners or the board of
18 trustees, and, if none, as of the date of authorization of continuance
19 by the fire company; notwithstanding that there may have been some legal
20 defect in such election, or the proceedings precedent thereto, or a
21 failure of the board of fire commissioners or board of trustees to
22 approve such member, or approve the continuance of membership of such
23 member, as provided by the law in force at the time of such election, or
24 continuance, and the status of such person as a volunteer fireman as of
25 the date is hereby legalized, validated and confirmed. This subdivision
26 shall not apply to a person, if any, whose volunteer membership in a
27 fire company was disapproved by the board of trustees or board of fire
28 commissioners or declared invalid by a court of competent jurisdiction
29 prior to the first day of January, [two thousand three] TWO THOUSAND
30 ELEVEN.

31 S 4. Paragraph 1 of subdivision 14 of section 176-b of the town law,
32 as amended by chapter 393 of the laws of 2003, is amended to read as
33 follows:

34 (1) who was recognized on and after the first day of July, nineteen
35 hundred fifty-four and prior to the first day of January, [two thousand
36 three] TWO THOUSAND ELEVEN, as a volunteer member of any fire company of
37 the fire district by the board of fire commissioners of the fire
38 district or by the officers and members of his fire company, and

39 S 5. Paragraph 3 of subdivision 14 of section 176-b of the town law,
40 as amended by chapter 393 of the laws of 2003, is amended to read as
41 follows:

42 (3) who was, at the time of his election to membership, a resident of
43 the fire district or of territory outside the fire district which was
44 afforded fire protection by the fire department of the fire district, or
45 any fire company thereof, pursuant to a contract for fire protection,
46 or, who was a nonresident who was elected to membership or who was
47 continued as a member, pursuant to the provisions of subdivision five or
48 six of this section, shall for all purposes in law be considered to have
49 been duly elected and approved, or continued, as a member in such fire
50 company as of the date of such approval, if any, and, if none, then as
51 of the date of such election or, in the case of a continuance, as of the
52 date of the approval, if any, by the board of fire commissioners, and,
53 if none, as of the date of authorization of continuance by the fire
54 company; notwithstanding that there may have been some legal defect in
55 such election, or the proceedings precedent thereto, or a failure of the
56 board of fire commissioners to approve such member, or approve the

1 continuance of membership of such member, as provided by the law in
2 force at the time of such election or continuance, and the status of
3 such person as a volunteer firefighter as of such date is hereby legal-
4 ized, validated, and confirmed. This subdivision shall not apply to a
5 person, if any, whose volunteer membership in a fire company was disap-
6 proved by the board of fire commissioners or declared invalid by a court
7 of competent jurisdiction prior to the first day of January, [two thou-
8 sand three] TWO THOUSAND ELEVEN.

9 S 6. Paragraph 1 of subdivision 13 of section 16-a of the general city
10 law, as amended by chapter 393 of the laws of 2003, is amended to read
11 as follows:

12 (1) who was recognized prior to the first day of January, [two thou-
13 sand three] TWO THOUSAND ELEVEN, as a volunteer member of any fire
14 company of a city subject to the provisions of this section by the
15 governing board or board of fire commissioners of the city or by the
16 officers and members of his fire company, and

17 S 7. Paragraph 3 of subdivision 13 of section 16-a of the general city
18 law, as amended by chapter 393 of the laws of 2003, is amended to read
19 as follows:

20 (3) who was, at the time of his election to membership, a resident of
21 the city or of territory outside the city which was afforded fire
22 protection by the fire department of the city, or any fire company ther-
23 eof, pursuant to a contract for fire protection, or who was a non-resi-
24 dent who was elected to membership or who was continued as a member,
25 pursuant to the provisions of subdivision five or six of this section,
26 shall for all purposes in law be considered to have been duly elected
27 and approved, or continued, as a member in such fire company as of the
28 date of such approval, if any, and, if none, then as of the date of such
29 election or, in the case of a continuance, as of the date of the
30 approval, if any, by the board of fire commissioners or the governing
31 board, and, if none, as of the date of authorization of continuance by
32 the fire company; notwithstanding that there may have been some legal
33 defect in such election, or the proceedings precedent thereto, or a
34 failure of the board of fire commissioners or governing board to approve
35 such member, or approve the continuance of membership of such member, as
36 provided by the law in force at the time of such election, or contin-
37 uance, and the status of such person as a volunteer fireman as of such
38 date is hereby legalized, validated and confirmed. This subdivision
39 shall not apply to a person, if any, whose volunteer membership in a
40 fire company was disapproved by the board of fire commissioners or
41 declared invalid by a court of competent jurisdiction prior to the first
42 day of January, [two thousand three] TWO THOUSAND ELEVEN.

43 S 8. Clause (A) of subparagraph 2 of paragraph h of section 1402 of
44 the not-for-profit corporation law, as amended by chapter 393 of the
45 laws of 2003, is amended to read as follows:

46 (A) who was recognized on or after the first day of July, nineteen
47 hundred fifty-four and prior to the first day of January, [two thousand
48 three] TWO THOUSAND ELEVEN as a volunteer member of a fire corporation
49 subject to the provisions of this section located in a town outside
50 villages and fire districts by the town board or by the officers and
51 members of the fire corporation, and

52 S 9. Clause (C) of subparagraph 2 of paragraph h of section 1402 of
53 the not-for-profit corporation law, as amended by chapter 393 of the
54 laws of 2003, is amended to read as follows:

55 (C) who was, at the time of his election to membership, a resident of
56 the territory specified in the certificate of incorporation or of terri-

1 tory outside such boundaries which was afforded fire protection by the
2 fire corporation pursuant to a contract for fire protection, or who was
3 a nonresident elected to membership or who was continued as a member,
4 pursuant to the provisions of subparagraph (A) shall for all purposes in
5 law be considered to have been duly elected and confirmed, or continued,
6 as a member in such fire corporation as of the date of such confirma-
7 tion, if any, and, if none, then as of the date of such election or, in
8 the case of a continuance, as of the date of approval, if any, by the
9 town board and, if none, as of the date of authorization of continuance
10 by the fire corporation; notwithstanding that there may have been some
11 legal defect in such election, or the proceedings thereto, or a failure
12 of the town board to confirm the election, or approve the continuance of
13 membership, of such member, as provided by the law in force at the time
14 of such election or continuance, and the status of such person as a
15 volunteer fireman as of such date is hereby legalized, validated and
16 confirmed. This subparagraph shall not apply to a person, if any, whose
17 volunteer membership in a fire corporation was declared invalid by a
18 court of competent jurisdiction prior to the first day of January, [two
19 thousand three] TWO THOUSAND ELEVEN.

20 S 10. This act shall take effect immediately.