

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

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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.