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

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:

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

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

(1) who was recognized on and after the first day of July, nineteen hundred fifty-four and prior to the first day of January, [two thousand 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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a village subject to the provisions of this article by the board of trustees or board of fire commissioners of the village or by the officers and members of his fire company, and

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

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

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

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

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

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

continuance of membership of such member, as provided by the law in force at the time of such election or continuance, and the status of such person as a volunteer firefighter as of such date is hereby legalized, validated, and confirmed. This subdivision shall not apply to a person, if any, whose volunteer membership in a fire company was disapproved by the board of fire commissioners or declared invalid by a court of competent jurisdiction prior to the first day of January, [two thousand three] TWO THOUSAND ELEVEN.

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

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

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

(3) who was, at the time of his election to membership, a resident of the city or of territory outside the city which was afforded fire protection by the fire department of the city, or any fire company thereof, pursuant to a contract for fire protection, or who was a non-resident who was elected to membership or who was continued as a member, pursuant to the provisions of subdivision five or six of this section, shall for all purposes in law be considered to have been duly elected and approved, or continued, as a member in such fire company as of the date of such approval, if any, and, if none, then as of the date of such election or, in the case of a continuance, as of the date of the approval, if any, by the board of fire commissioners or the governing board, and, if none, as of the date of authorization of continuance by the fire company; notwithstanding that there may have been some legal defect in such election, or the proceedings precedent thereto, or a failure of the board of fire commissioners or governing board to approve such member, or approve the continuance of membership of such member, as provided by the law in force at the time of such election, or continuance, and the status of such person as a volunteer fireman as of such date is hereby legalized, validated and confirmed. This subdivision shall not apply to a person, if any, whose volunteer membership in a fire company was disapproved by the board of fire commissioners or declared invalid by a court of competent jurisdiction prior to the first day of January, [two thousand three] TWO THOUSAND ELEVEN.

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

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

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

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

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

S 10. This act shall take effect immediately.