

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

756--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. RABBITT, STEVENSON, RAIA, CROUCH, HAWLEY, MOLINA-RO -- Multi-Sponsored by -- M. of A. BURLING -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law and the general municipal law, in relation to authorizing certain fire districts to offer certain benefits to their volunteer firefighters subject to a mandatory referendum

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

1 Section 1. Subdivision 18 of section 176 of the town law is amended by
2 adding a new paragraph 7-b to read as follows:
3 (7-B) THE PAYMENTS FOR PARTICIPATION IN DEPARTMENT DRILLS AND
4 RESPONSES MADE TO VOLUNTEER FIREFIGHTERS AND VOLUNTEER OFFICERS OF THE
5 FIRE DEPARTMENT PURSUANT TO SECTION TWO HUNDRED EIGHTEEN-A OF THE GENER-
6 AL MUNICIPAL LAW,
7 S 2. The general municipal law is amended by adding a new section
8 218-a to read as follows:
9 S 218-A. PAYMENTS FOR PARTICIPATION IN DEPARTMENT DRILLS AND
10 RESPONSES. 1. UPON THE AFFIRMATIVE VOTE OF AT LEAST SIXTY PERCENT OF THE
11 GOVERNING BOARD OF A FIRE DISTRICT WHICH HAS ESTABLISHED A SERVICE AWARD
12 PROGRAM PURSUANT TO THIS ARTICLE, THERE SHALL BE HELD A MANDATORY REFER-
13 ENDUM OF THE ELIGIBLE VOTERS WITHIN SUCH FIRE DISTRICT TO DETERMINE
14 WHETHER SUCH GOVERNING BOARD SHALL AUTHORIZE PAYMENTS FOR PARTICIPATION
15 IN DEPARTMENT DRILLS AND RESPONSES PURSUANT TO THE PROVISIONS OF THIS
16 SECTION.
17 2. THE REFERENDUM DESCRIBED IN SUBDIVISION ONE OF THIS SECTION SHALL
18 STATE THE MAXIMUM ANNUAL COST OF THE PAYMENTS AUTHORIZED, INCLUDING THE
19 ESTIMATED ANNUAL ADMINISTRATION COSTS AND THE MAXIMUM ANNUAL PAYMENT TO
20 A PARTICIPATING ACTIVE VOLUNTEER FIREFIGHTER, PURSUANT TO THIS SECTION.

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

LBD03901-02-1

1 3. THE MAXIMUM ANNUAL COST TO A FIRE DISTRICT OF THE PAYMENTS AUTHOR-
2 IZED SHALL BE TWO HUNDRED FIFTY THOUSAND DOLLARS AND THE MAXIMUM ANNUAL
3 PAYMENT TO OR ON BEHALF OF A PARTICIPATING ACTIVE VOLUNTEER FIREFIGHTER
4 SHALL BE SIX THOUSAND DOLLARS.

5 4. ONCE SUCH PAYMENTS HAVE BEEN AUTHORIZED, THE AUTHORIZATION MAY BE
6 ABOLISHED OR AMENDED IN THE SAME MANNER AS IT WAS APPROVED BY THE PROCE-
7 DURES SET FORTH IN SUBDIVISION ONE OF THIS SECTION, BUT NO SUCH ABOLISH-
8 MENT OR AMENDMENT MAY BE EFFECTIVE PRIOR TO THE FIRST DAY OF THE CALEN-
9 DAR YEAR FOLLOWING SUCH AUTHORIZATION.

10 5. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, NO MEMBER OF THE
11 GOVERNING BOARD OF THE FIRE DISTRICT IS PROHIBITED, BY VIRTUE OF BEING A
12 MEMBER OF A VOLUNTEER FIRE COMPANY OR DEPARTMENT, FROM VOTING UPON A
13 RESOLUTION AUTHORIZING A REFERENDUM ON THE ESTABLISHMENT OF A SERVICE
14 AWARD PROGRAM IF MORE THAN FORTY PERCENT OF THE GOVERNING BOARD WOULD
15 OTHERWISE BE PROHIBITED FROM VOTING UPON SUCH RESOLUTION. ANY MEMBER OF
16 SUCH GOVERNING BOARD VOTING UPON SUCH RESOLUTION WHO SERVES AS A MEMBER
17 OF A VOLUNTEER FIRE COMPANY OR DEPARTMENT SHALL PUBLICLY DISCLOSE IN
18 WRITING TO THE GOVERNING BOARD SUCH STATUS. SUCH WRITTEN DISCLOSURE
19 SHALL BE PART OF AND SET FORTH IN THE OFFICIAL RECORD OF THE PROCEEDINGS
20 OF SUCH GOVERNING BOARD.

21 6. RECEIPT OF SUCH PAYMENTS SHALL NOT ALTER THE STATUS OF A PERSON AS
22 AN ACTIVE VOLUNTEER FIREFIGHTER UNDER THIS ARTICLE, OR AS A VOLUNTEER
23 FIREMAN PURSUANT TO SECTION THREE OF THE VOLUNTEER FIREFIGHTER'S BENEFIT
24 LAW, OR AS A VOLUNTEER FIREFIGHTER UNDER SECTION TWO HUNDRED FIVE-B OF
25 THIS CHAPTER, OR AS A VOLUNTEER FIREFIGHTER OR VOLUNTEER FIRE OFFICER
26 UNDER ANY OTHER LAW OR REGULATION AND SUCH PERSONS SHALL NOT BE DEEMED
27 PAID FIREFIGHTERS BY VIRTUE OF RECEIPT OF SUCH PAYMENTS.

28 7. EACH ACTIVE VOLUNTEER FIREFIGHTER WHO IS A MEMBER OF A VOLUNTEER
29 FIRE COMPANY OR DEPARTMENT WITHIN A FIRE DISTRICT THAT HAS AUTHORIZED
30 PAYMENTS PURSUANT TO THIS SECTION, MAY ELECT TO RECEIVE SUCH PAYMENTS IN
31 LIEU OF BEING GRANTED CREDITS FOR DRILLS AND PARTICIPATION IN DEPARTMENT
32 RESPONSES AS WOULD OTHERWISE BE GRANTED PURSUANT TO SECTION TWO HUNDRED
33 SEVENTEEN OF THIS ARTICLE. A PARTICIPATING ACTIVE VOLUNTEER FIREFIGHTER
34 SHALL BE PAID, SUBJECT TO ANY APPLICABLE WITHHOLDING TAXES, FIVE DOLLARS
35 FOR PARTICIPATING IN EACH QUALIFIED DRILL APPROVED BY THE CHIEF OF THE
36 DISTRICT OR HIS OR HER DESIGNEE AND FIVE DOLLARS FOR PARTICIPATING IN
37 ANY QUALIFIED EMERGENCY RESPONSE. A QUALIFIED DRILL MEANS ANY DRILL FOR
38 WHICH POINTS COULD BE GRANTED PURSUANT TO SUBDIVISION (C) OF SECTION TWO
39 HUNDRED SEVENTEEN OF THIS ARTICLE. A QUALIFIED EMERGENCY RESPONSE MEANS
40 ANY DEPARTMENT RESPONSE FOR WHICH POINTS COULD BE GRANTED PURSUANT TO
41 SUBDIVISION (C) OF SECTION TWO HUNDRED SEVENTEEN OF THIS ARTICLE.

42 8. AN ELECTION BY AN ACTIVE VOLUNTEER FIREFIGHTER TO RECEIVE PAYMENTS
43 PURSUANT TO THIS SECTION, SHALL BE MADE IN WRITING ON A FORM APPROVED BY
44 THE BOARD OF THE FIRE DISTRICT AND SIGNED BY THE ACTIVE VOLUNTEER FIRE-
45 FIGHTER NOT MORE THAN SIXTY DAYS IMMEDIATELY PRECEDING THE COMMENCEMENT
46 OF THE CALENDAR YEAR, AND NOT DURING SUCH CALENDAR YEAR FOR WHICH
47 PAYMENTS UNDER THIS SECTION SHALL BE ELECTED IN LIEU OF CREDITS UNDER A
48 SERVICE AWARD PROGRAM. A TIMELY ELECTION SHALL BE MADE BY THE ACTIVE
49 VOLUNTEER FIREFIGHTER FOR EACH SUBSEQUENT CALENDAR YEAR. SUCH AN
50 ELECTION SHALL NOT BE REVOCABLE BY THE ACTIVE VOLUNTEER FIREFIGHTER
51 DURING AND WITH RESPECT TO THE CALENDAR YEAR FOR WHICH HE OR SHE HAS
52 ELECTED TO BE ELIGIBLE FOR PAYMENTS UNDER THIS SECTION.

53 9. A RECIPIENT OF ANY PAYMENTS, PURSUANT TO THIS SECTION, FOR A CALEN-
54 DAR YEAR SHALL NOT BE ELIGIBLE FOR ANY CREDITS FOR DRILLS OR FOR PARTIC-
55 IPATION IN DEPARTMENT RESPONSES FOR THAT CALENDAR YEAR.

1 10. THIS SECTION SHALL BE APPLICABLE ONLY TO FIRE DISTRICTS WITHIN THE
2 TOWN OF WALLKILL IN ORANGE COUNTY.
3 S 3. A fire district which has determined to provide payments for
4 participation in department drills and responses pursuant to section
5 218-a of the general municipal law, as added by section two of this act,
6 shall cause an independent review of such payment program to be made on
7 or before March 1, 2014. Such report shall be furnished to the governor,
8 temporary president of the senate, the speaker of the assembly and the
9 office of fire prevention and control in the department of state.
10 S 4. This act shall take effect immediately provided, however, that,
11 no payments authorized under section 218-a of the general municipal law,
12 as added by section two of this act, shall accrue on or after January 1,
13 2015.