

9900

I N   A S S E M B L Y

April 20, 2012

---

Introduced by M. of A. LATIMER, ENGLEBRIGHT -- (at request of the Division of Homeland Security and Emergency Services) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil service law, the county law, the executive law and the general municipal law, in relation to making technical corrections

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

1     Section 1. Section 58-a of the civil service law, as added by chapter  
2     369 of the laws of 1976, subdivisions 1 and 5 as amended by chapter 225  
3     of the laws of 1979, is amended to read as follows:  
4     S 58-a. Requirements for provisional or permanent appointment of  
5     certain fire fighters. 1. Notwithstanding any other provision of this  
6     law or any general, special or local law to the contrary, no person  
7     shall be eligible for provisional or permanent appointment in the  
8     competitive class of the civil service as a fire fighter unless he OR  
9     SHE shall satisfy the basic requirements for education, health and physical  
10    fitness established by the [governor pursuant to section one  
11    hundred fifty-nine-d] STATE FIRE ADMINISTRATOR PURSUANT TO SECTION ONE  
12    HUNDRED FIFTY-EIGHT of the executive law.  
13    2. Notwithstanding the provisions of subdivision one of this section,  
14    upon the request of a municipal commission having jurisdiction over a  
15    fire department and upon a showing by such municipal commission and a  
16    determination by the state commission that aggravated recruitment difficulties  
17    are causing a serious shortage of fire fighters in such fire  
18    department and that such municipal commission and all appropriate  
19    authorities are making diligent efforts, including payment of adequate  
20    compensation, to overcome such recruitment difficulties, the state  
21    commission, with the approval of the [fire fighting personnel standards  
22    and education commission] STATE FIRE ADMINISTRATOR, may change the  
23    educational, health and physical fitness requirements for provisional  
24    and permanent appointment as a fire fighter in such fire department for  
25    a period not exceeding two years from the date of such determination.  
26    Such changes may be authorized for an additional period not exceeding

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

LBD14465-01-2

1 two years, upon a showing and a determination similar to that required  
2 hereunder for the original authorization.

3 3. The provisions of this section shall not prevent the establishment  
4 of more restrictive local requirements for eligibility for fire fight-  
5 ers.

6 4. For the purposes of this section fire fighter means a member of a  
7 fire department whose duties include fire service as the phrase fire  
8 service is defined in paragraph d of subdivision eleven of section three  
9 hundred two of the retirement and social security law.

10 5. Any person whose name was on an eligible list for appointment in  
11 the competitive class of the civil service as a fire fighter on the date  
12 educational, health and physical fitness requirements for fire fighters  
13 are promulgated by the [governor pursuant to section one hundred fifty-  
14 nine-d] STATE FIRE ADMINISTRATOR PURSUANT TO SECTION ONE HUNDRED FIFTY-  
15 EIGHT of the executive law, shall continue to remain eligible for  
16 appointment from such list during the life of such list without satisfy-  
17 ing such requirements provided he OR SHE would otherwise have remained  
18 eligible for appointment from such list if this section had not been  
19 enacted.

20 6. The provisions of this section shall not apply to appointments made  
21 by any county, city, town, village or fire district which employs five  
22 or fewer fire fighters.

23 S 2. Section 236-b of the county law, as added by chapter 339 of the  
24 laws of 2009, is amended to read as follows:

25 S 236-b. County electrical inspector licensing. 1. Notwithstanding  
26 any inconsistent general, special, or local law to the contrary, the  
27 county of Westchester is hereby authorized to establish a Westchester  
28 county board of examiners for electrical inspectors and to empower such  
29 board to assume all licensing duties within the county of Westchester  
30 with respect to the licensure of electrical inspectors. The county of  
31 Westchester shall provide for electrical inspectors' duties and respon-  
32 sibilities with respect to applications for a license or renewal in  
33 accordance with the local law of such county. A local law enacted pursu-  
34 ant to this section establishing county licensure of electrical inspec-  
35 tors shall provide standards for licensure which shall include, at a  
36 minimum, a provision that no person shall obtain a license unless such  
37 person shall have received training in the inspection of electrical  
38 components, equipment and systems used in buildings and structures which  
39 is at least equivalent to the training in the inspection of electrical  
40 components, equipment and systems used in buildings and structures  
41 required for code enforcement personnel under the rules and regulations  
42 promulgated by the [governor pursuant to article six-C] SECRETARY OF  
43 STATE PURSUANT TO SECTION THREE HUNDRED SEVENTY-SIX-A of the executive  
44 law.

45 2. A local law enacted pursuant to this section establishing county  
46 licensure of electrical inspectors shall supersede any provision requir-  
47 ing electrical inspectors to also obtain a local license promulgated by  
48 a city, town or village in the county pursuant to any general, special  
49 or local law. Nothing in this section shall be deemed to supersede any  
50 of the powers, functions and duties of the [fire fighting and code  
51 enforcement personnel standards and education commission, as set forth  
52 in article six-C] SECRETARY OF STATE PURSUANT TO SECTION THREE HUNDRED  
53 SEVENTY-SIX-A of the executive law.

54 3. In this section, the term "electrical inspector" shall mean any  
55 person who now or hereafter inspects electrical components, equipment  
56 and systems used in buildings and structures to determine the compliance

1 of such electrical components, equipment and systems and the installa-  
2 tion of such electrical components, equipment and systems with the  
3 applicable provisions of the state uniform fire prevention and building  
4 code promulgated pursuant to article eighteen of the executive law;  
5 provided, however, that the term electrical inspector shall not include  
6 any person who performs such inspections as an employee of the state of  
7 New York, any agency of the state of New York, or any county, city, town  
8 or village. In no event shall any person who now or hereafter performs  
9 such inspections as an employee of the state of New York, any agency of  
10 the state of New York, or any county, city, town or village be required  
11 to obtain a license issued pursuant to this section or pursuant to any  
12 local law enacted pursuant to this section.

13 4. In this section, the term "agency of the state of New York" shall  
14 include any department, bureau, commission, board, public authority or  
15 other agency of the state of New York; any public benefit corporation  
16 whose board of directors includes any member appointed by the governor;  
17 any subdivision of any department, bureau, commission, board, public  
18 authority or other agency of the state which is easily identifiable and  
19 which for most other purposes is treated as an independent state agency;  
20 and the office for technology.

21 S 3. Section 156-a of the executive law, as amended by section 1 of  
22 part D of chapter 1 of the laws of 2004, is amended to read as follows:

23 S 156-a. Establishment of a specialized hazardous materials emergency  
24 response training program. 1. The state fire administrator shall[, in  
25 his or her discretion, consult with the fire fighting and code enforce-  
26 ment personnel standards and education commission established pursuant  
27 to section one hundred fifty-nine-a of this article, to] establish a  
28 specialized hazardous materials emergency response training program for  
29 individuals responsible for providing emergency response recovery  
30 following incidents involving hazardous materials as defined in accord-  
31 ance with section fourteen-f of the transportation law. The state fire  
32 administrator shall inform all fire companies, municipal corporations  
33 and districts, including agencies and departments thereof and all fire-  
34 fighters, both paid and volunteer, and related officers and employees  
35 and police officers of the implementation and availability of the  
36 hazardous materials emergency response training program and shall,  
37 subject to the availability of an appropriation, conduct such training  
38 with sufficient frequency to assure adequate response to incidents  
39 involving hazardous materials and protection of responders in all  
40 geographic areas of the state.

41 2. The state fire administrator[, in consultation with the aforemen-  
42 tioned commission] shall prescribe the curriculum of the hazardous mate-  
43 rials emergency response training program, which shall include, but  
44 shall not be limited to:

45 (a) hands-on training, including information in regard to leak and  
46 spill control, product neutralization, pickup and disposal, fire  
47 control, decontamination procedures and use and application of foam  
48 agents;

49 (b) hazard assessment with emphasis on incident scene decision-making,  
50 including: potential threat to public safety and need for evacuation,  
51 calculation of the effect of weather on certain chemicals and evaluation  
52 of the result of chemical exposures to air, water, soil, vegetation,  
53 lives and property and impact on the personal safety of those working in  
54 the accident area;

55 (c) calibration and use of emergency equipment;

1 (d) chemical and biological properties of various classes of chemi-  
2 cals, for example, flammables, oxidizers, corrosives, poisons; and  
3 (e) weapons of mass destruction and response to terrorism.

4 3. The state fire administrator is hereby directed to issue a report  
5 to the governor, speaker of the assembly, temporary president of the  
6 senate, chairman of the assembly transportation committee and the chair-  
7 man of the senate transportation committee by [April first] FEBRUARY  
8 FIFTEENTH of each year on the operations of the program set forth in  
9 this section.

10 4. The state fire administrator shall promulgate such rules and regu-  
11 lations as are necessary to carry out the provisions of this section.

12 S 4. Subdivision 8 of section 156-c of the executive law, as amended  
13 by chapter 583 of the laws of 2006, is amended to read as follows:

14 8. a. To enforce the provisions of this section, the commissioner of  
15 taxation and finance and the [secretary of state] STATE FIRE ADMINISTRA-  
16 TOR may take administrative action imposing the civil penalties and  
17 suspensions authorized by subdivision five of this section. In addition,  
18 the attorney general may bring an action on behalf of the people of the  
19 state of New York to enjoin acts in violation of this section and to  
20 recover any civil penalties unless civil penalties have been previously  
21 recovered in such administrative proceedings.

22 b. Any enforcement officer as defined in section thirteen hundred  
23 ninety-nine-t of the public health law shall have the power to impose  
24 upon any retail dealer the civil penalties authorized by subdivision  
25 five of this section, following a hearing conducted in the same manner  
26 as hearings conducted under article thirteen-E of the public health law.

27 c. To enforce the provisions of this section, the commissioner of  
28 taxation and finance and the [secretary of state] STATE FIRE ADMINISTRA-  
29 TOR, or their duly authorized representatives, are hereby authorized to  
30 examine the books, papers, invoices and other records of any person in  
31 possession, control or occupancy of any premises where cigarettes are  
32 placed, stored, sold or offered for sale, as well as the stock of ciga-  
33 rettes in any such premises. Every person in the possession, control or  
34 occupancy of any premises where cigarettes are placed, sold or offered  
35 for sale, is hereby directed and required to give the commissioner of  
36 taxation and finance and the [secretary of state] STATE FIRE ADMINISTRA-  
37 TOR, and their duly authorized representatives, the means, facilities  
38 and opportunity for such examinations as are herein provided for and  
39 required.

40 d. Whenever any police officer designated in section 1.20 of the crim-  
41 inal procedure law or a peace officer designated in subdivision four and  
42 subdivision seventy-nine pertaining to the [Department of State's]  
43 Office of Fire Prevention and Control, of section 2.10 of such law,  
44 acting pursuant to his or her special duties, shall discover any ciga-  
45 rettes which have not been marked in the manner required by subdivision  
46 six of this section, such officer is hereby authorized and empowered to  
47 seize and take possession of such cigarettes. Such seized cigarettes  
48 shall be turned over to the commissioner of taxation and finance, and  
49 shall be forfeited to the state. Cigarettes seized pursuant to this  
50 section shall be destroyed.

51 e. The [secretary of state] STATE FIRE ADMINISTRATOR and the commis-  
52 sioner of taxation and finance are hereby authorized to promulgate such  
53 regulations as are deemed necessary to implement the provisions of this  
54 section.

1 S 5. Subdivision 2 of section 159 of the executive law, as added by  
2 section 29-b of part B of chapter 56 of the laws of 2010, is amended to  
3 read as follows:

4 2. The council shall be composed of the state fire administrator, as  
5 chair, or his or her designee, and twelve other members appointed as  
6 follows: six members appointed by the governor; two members appointed by  
7 the temporary president of the senate; one member appointed by the  
8 minority leader of the senate; two members appointed by the speaker of  
9 the assembly; one member appointed by the minority leader of the assem-  
10 bly. [Members of the fire safety advisory board, the arson board and the  
11 firefighting and code enforcement personnel standard and education  
12 commission may be appointed to this advisory council.]

13 S 6. Subdivision 2 of section 711 of the executive law, as added by  
14 section 2 of part B of chapter 1 of the laws of 2004, is amended to read  
15 as follows:

16 2. The [director] COMMISSIONER shall appear and give testimony before  
17 the annual legislative hearing on public protection held jointly by the  
18 assembly committee on ways and means and the senate finance committee as  
19 provided for in section three of article VII of the New York state  
20 constitution and section thirty-one of the legislative law.

21 S 7. Section 209-e of the general municipal law, as amended by chapter  
22 225 of the laws of 1979, subdivisions 1 and 2 as amended by section 45  
23 of part B of chapter 56 of the laws of 2010, subdivision 8 as added by  
24 chapter 827 of the laws of 1987, is amended to read as follows:

25 S 209-e. Fire mobilization and mutual aid plan. 1. Plan. The state  
26 fire administrator shall prepare a state fire mobilization and mutual  
27 aid plan which may provide for the establishment of fire mobilization  
28 and mutual aid zones of the state. Upon filing of the plan in the office  
29 of fire prevention and control such plan shall become the state fire  
30 mobilization and mutual aid plan. Such plan may be amended from time to  
31 time in the same manner as originally adopted.

32 2. Regional fire administrators. The state fire administrator may  
33 appoint and remove a regional fire administrator for each fire mobili-  
34 zation and mutual aid zone established pursuant to the state fire mobili-  
35 zation and mutual aid plan. Before he OR SHE enters on the duties of the  
36 office, each regional fire administrator shall take and subscribe before  
37 an officer authorized by law to administer oaths the constitutional oath  
38 of office, which shall be administered and certified by the officer  
39 taking the same without compensation and shall be filed in the office of  
40 [fire prevention and control] THE SECRETARY OF STATE.

41 3. Regulations. The state fire administrator may make regulations and  
42 issue orders which he OR SHE may deem necessary to implement the state  
43 fire mobilization and mutual aid plan and carry out the purposes of this  
44 section.

45 4. Powers. Whenever a county, city, town, village or fire district  
46 shall request, or whenever the governor shall determine that the public  
47 interest so requires, the state fire administrator shall possess and  
48 exercise the powers, functions and duties set forth in the state fire  
49 mobilization and mutual aid plan.

50 5. Standard thread. The state fire mobilization and mutual aid plan  
51 shall prescribe a standard hose thread for the state, and each county,  
52 city, town, village or fire district not equipped with the same may be  
53 required either to recut its threads to such standard or provide adapt-  
54 ers whereby the same may be brought to such standards.

55 6. Records. The state fire administrator shall keep a permanent public  
56 record of the activations of the state fire mobilization and mutual aid

1 plan, showing how, when and where it was activated and when such acti-  
2 vation was terminated.

3 7. Reimbursement of assisting municipal corporations or fire  
4 districts. Whenever the governor activates the state fire mobilization  
5 and mutual aid plan pursuant to subdivision four of this section, claims  
6 submitted by an assisting municipal corporation or fire district for  
7 expenses allowed by subdivision two of section two hundred nine-g of  
8 this article made in performance of its duties on behalf of a receiving  
9 municipality or fire district pursuant to such plan may be reimbursed in  
10 the first instance by the state from any local assistance appropriation  
11 established for such purpose. Reimbursements of such claims from such  
12 appropriation may be made only upon certification of such claim by the  
13 state fire administrator to the state comptroller and audit of such  
14 claim by the state comptroller prior to payment. Expenditures for such  
15 reimbursements from such appropriation shall be considered a liability  
16 for outside aid as described in section two hundred nine-g of this arti-  
17 cle and shall be repaid by the municipality or fire district receiving  
18 assistance pursuant to the state fire mobilization and mutual aid plan.

19 8. Hazardous materials incident plan. The state fire administrator  
20 shall prepare a hazardous materials incident plan which shall complement  
21 and become a part of the plan required by subdivision one of this  
22 section. The plan shall provide for the mobilization and coordination  
23 of fire service resources in response to emergencies which involve or  
24 may involve hazardous materials and shall establish hazardous materials  
25 incidents response zones and criteria for recognized regional hazardous  
26 materials incidents response teams. The office of fire prevention and  
27 control, by and through the state fire administrator or his duly author-  
28 ized officers and employees, is authorized to approve grants of funds  
29 from monies allocated and appropriated therefor for expenditures of  
30 municipal corporations for hazardous materials incidents planning and  
31 equipment, pursuant to applicable rules and regulations promulgated by  
32 the [secretary of state] STATE FIRE ADMINISTRATOR and approved by the  
33 director of the budget.

34 S 8. Section 209-w of the general municipal law, as added by chapter  
35 369 of the laws of 1976, subdivisions 1 and 5 as amended by chapter 225  
36 of the laws of 1979, is amended to read as follows:

37 S 209-w. Permanent appointment of fire fighters; completion of train-  
38 ing program. 1. Notwithstanding the provisions of any general, special,  
39 or local law or charter to the contrary, no person shall, after the  
40 effective date of regulations adopted by the [governor pursuant to  
41 section one hundred fifty-nine-d] STATE FIRE ADMINISTRATOR PURSUANT TO  
42 SECTION ONE HUNDRED FIFTY-EIGHT of the executive law, receive an  
43 original appointment on a permanent basis as a fire fighter of any coun-  
44 ty, city, town, village, or fire district unless such person has previ-  
45 ously been awarded a certificate by the state fire administrator attest-  
46 ing to his OR HER satisfactory completion of an approved fire basic  
47 training program; and every person who is appointed on a temporary basis  
48 or for a probationary term or on other than a permanent basis as a fire  
49 fighter of any county, city, town, village or fire district shall  
50 forfeit his OR HER position as such unless he OR SHE previously has  
51 satisfactorily completed, or within the time prescribed by regulations  
52 promulgated by the [governor pursuant to section one hundred  
53 fifty-nine-d] STATE FIRE ADMINISTRATOR PURSUANT TO SECTION ONE HUNDRED  
54 FIFTY-EIGHT of the executive law, satisfactorily completes, a fire basic  
55 training program for temporary or probationary fire fighters and is  
56 awarded a certificate by the state fire administrator attesting thereto.

1     2. The term fire fighter, as used in this section, shall mean a member  
2 of a fire department whose duties include fire service as the phrase  
3 fire service is defined in paragraph d of subdivision eleven of section  
4 three hundred two of the retirement and social security law.

5     3. Nothing in this section shall be construed to exempt any fire  
6 fighter or other officer or employee from the provisions of the civil  
7 service law.

8     4. The provisions of this section shall not prevent the establishment  
9 of more restrictive local requirements for appointment of fire fighters.

10    5. Any person whose name was on an eligible list for appointment in  
11 the competitive class of the civil service as a fire fighter on the  
12 effective date of any rules and regulations promulgated by the [governor  
13 pursuant to section one hundred fifty-nine-d] STATE FIRE ADMINISTRATOR  
14 PURSUANT TO SECTION ONE HUNDRED FIFTY-EIGHT of the executive law shall  
15 continue to remain eligible for permanent appointment from such list  
16 during the life of such list without satisfying the requirements set  
17 forth in subdivision one of this section, provided he OR SHE would  
18 otherwise have remained eligible for permanent appointment from such  
19 list if this section had not been enacted.

20    6. The provisions of this section shall not apply to appointments made  
21 by any county, city, town, village or fire district which employs five  
22 or fewer fire fighters.

23    S 9. This act shall take effect immediately.