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

3396

2013-2014 Regular Sessions

I N A S S E M B L Y

January 25, 2013

Introduced by M. of A. RABBITT, STEVENSON, RAIA, CROUCH, HAWLEY -- read once and referred to the Committee on Local Governments

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:

Section 1. Subdivision 18 of section 176 of the town law is amended by adding a new paragraph 7-b to read as follows:

(7-B) THE PAYMENTS FOR PARTICIPATION IN DEPARTMENT DRILLS AND RESPONSES MADE TO VOLUNTEER FIREFIGHTERS AND VOLUNTEER OFFICERS OF THE FIRE DEPARTMENT PURSUANT TO SECTION TWO HUNDRED EIGHTEEN-A OF THE GENERAL MUNICIPAL LAW,

S 2. The general municipal law is amended by adding a new section 218-a to read as follows:

S 218-A. PAYMENTS FOR PARTICIPATION IN DEPARTMENT DRILLS AND RESPONSES. 1. UPON THE AFFIRMATIVE VOTE OF AT LEAST SIXTY PERCENT OF THE GOVERNING BOARD OF A FIRE DISTRICT WHICH HAS ESTABLISHED A SERVICE AWARD PROGRAM PURSUANT TO THIS ARTICLE, THERE SHALL BE HELD A MANDATORY REFERENDUM OF THE ELIGIBLE VOTERS WITHIN SUCH FIRE DISTRICT TO DETERMINE WHETHER SUCH GOVERNING BOARD SHALL AUTHORIZE PAYMENTS FOR PARTICIPATION IN DEPARTMENT DRILLS AND RESPONSES PURSUANT TO THE PROVISIONS OF THIS SECTION.

2. THE REFERENDUM DESCRIBED IN SUBDIVISION ONE OF THIS SECTION SHALL STATE THE MAXIMUM ANNUAL COST OF THE PAYMENTS AUTHORIZED, INCLUDING THE ESTIMATED ANNUAL ADMINISTRATION COSTS AND THE MAXIMUM ANNUAL PAYMENT TO A PARTICIPATING ACTIVE VOLUNTEER FIREFIGHTER, PURSUANT TO THIS SECTION.

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

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

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4. ONCE SUCH PAYMENTS HAVE BEEN AUTHORIZED, THE AUTHORIZATION MAY BE ABOLISHED OR AMENDED IN THE SAME MANNER AS IT WAS APPROVED BY THE PROCEDURES SET FORTH IN SUBDIVISION ONE OF THIS SECTION, BUT NO SUCH ABOLISHMENT OR AMENDMENT MAY BE EFFECTIVE PRIOR TO THE FIRST DAY OF THE CALENDAR YEAR FOLLOWING SUCH AUTHORIZATION.

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

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

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

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

9. A RECIPIENT OF ANY PAYMENTS, PURSUANT TO THIS SECTION, FOR A CALENDAR YEAR SHALL NOT BE ELIGIBLE FOR ANY CREDITS FOR DRILLS OR FOR PARTICIPATION IN DEPARTMENT RESPONSES FOR THAT CALENDAR YEAR.

10. THIS SECTION SHALL BE APPLICABLE ONLY TO FIRE DISTRICTS WITHIN THE TOWN OF WALLKILL IN ORANGE COUNTY.

S 3. A fire district which has determined to provide payments for participation in department drills and responses pursuant to section 218-a of the general municipal law, as added by section two of this act,

shall cause an independent review of such payment program to be made on or before March 1, 2016. Such report shall be furnished to the governor, temporary president of the senate, the speaker of the assembly and the office of fire prevention and control in the division of homeland security and emergency services.

S 4. This act shall take effect immediately provided, however, that, no payments authorized under section 218-a of the general municipal law, as added by section two of this act, shall accrue on or after January 1, 2017.