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

6958

2015-2016 Regular Sessions

I N A S S E M B L Y

April 15, 2015

Introduced by M. of A. GALEF -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, the general municipal law, the local finance law and the town law, in relation to annual and special fire district elections; and to repeal certain provisions of the town law relating thereto

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

Section 1. Legislative intent. The county boards of elections will assume the responsibility for overseeing fire district elections. Such elections will take place on the days of village and town elections and in the registered voters' regular polling place. The fire district governing boards will provide the county boards of elections with the information necessary to administer such fire district elections.

Voter access to fire district elections will increase as the fire district elections will take place on a date and location familiar to all voters, additional voting hours are provided and absentee ballot applications will be available. This legislation upholds and strengthens the federal Help America Vote Act (HAVA) since the electronic marking ballot device would be accessible to all persons with disabilities.

S 2. Subdivisions 1, 2, 4, 5, and 6 of section 175, sections 175-a and 175-b, subdivisions 3, 6, 7, 8, and 29 of section 176 and section 179 of the town law are REPEALED.

S 3. The election law is amended by adding a new article 18 to read as follows:

ARTICLE 18

FIRE DISTRICT ELECTIONS

SECTION 18-100. ANNUAL AND SPECIAL ELECTIONS.
18-102. NOMINATING PETITIONS.
18-104. VACANCIES.
18-106. CERTIFICATES.

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

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S 18-100. ANNUAL AND SPECIAL ELECTIONS. 1. ANNUAL AND SPECIAL FIRE DISTRICT ELECTIONS SHALL BE GOVERNED BY THE RULES AND PROCEDURES OF ARTICLES ONE, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE AND TEN OF THIS CHAPTER AND SHALL TAKE PLACE ON THE TUESDAY NEXT SUCCEEDING THE FIRST MONDAY IN NOVEMBER.

2. THE COUNTY BOARDS OF ELECTION WILL CONSULT WITH FIRE DISTRICTS TO ESTABLISH THE VOTING PROCESS BY WHICH ELIGIBLE ELECTORS FOR EACH FIRE DISTRICT VOTE AT THEIR ELECTION DISTRICT POLLING PLACE.

S 18-102. NOMINATING PETITIONS. NOTWITHSTANDING SUBDIVISION TWO OF SECTION 6-142 OF THIS CHAPTER WITH RESPECT TO NOMINATING PETITIONS AND SIGNATURES, CANDIDATES FOR FIRE DISTRICT OFFICES SHALL FILE WITH THE COUNTY BOARD OF ELECTIONS A NOMINATING PETITION SUBSCRIBED BY TWENTY-FIVE VOTERS OF THE FIRE DISTRICT IN THE FORM SET FORTH IN SECTION 6-140 OF THIS CHAPTER.

S 18-104. VACANCIES. 1. ANY VACANCY IN AN ELECTIVE OFFICE WHICH EXISTS ON OR BEFORE SEPTEMBER NINETEENTH SHALL BE FILLED AT THE NEXT NOVEMBER GENERAL ELECTION HELD THEREAFTER, FOR THE REMAINDER OF THE UNEXPIRED TERM AND SHALL TAKE OFFICE ON JANUARY FIRST OF THE FOLLOWING YEAR. THE BOARD OF FIRE COMMISSIONERS OF A FIRE DISTRICT, OR A MAJORITY OF THE MEMBERS THEREOF IN OFFICE MAY APPOINT A QUALIFIED PERSON TO FILL A VACANCY UNTIL DECEMBER THIRTY-FIRST AFTER AN ELECTION HAS BEEN HELD TO FILL SAID VACANCY.

2. WHENEVER A VACANCY SHALL OCCUR IN AN APPOINTED FIRE DISTRICT OFFICE, THE BOARD OF FIRE COMMISSIONERS, OR A MAJORITY OF THE MEMBERS THEREOF IN OFFICE MAY APPOINT A QUALIFIED PERSON TO FILL THE VACANCY FOR THE REMAINDER OF THE UNEXPIRED TERM.

S 18-106. CERTIFICATES. A FIRE DISTRICT, AT LEAST EIGHT MONTHS BEFORE EACH GENERAL ELECTION, SHALL MAKE AND TRANSMIT TO THE BOARD OF ELECTIONS A CERTIFICATE STATING EACH FIRE DISTRICT OFFICE TO BE VOTED FOR AT EACH SUCH ELECTION. IF ANY SUCH OFFICE IS FOR AN UNEXPIRED TERM, THE CERTIFICATE SHALL SO STATE.

S 4. The opening paragraph of subdivision 4 of section 6-g of the general municipal law, as separately amended by chapters 234 and 235 of the laws of 2006, is amended to read as follows:

Any resolution of the board of fire commissioners authorizing the establishment of a reserve fund shall not take effect until approved by the affirmative vote of a majority of the electors of such fire district affected, qualified to vote at an annual election of fire district officers, voting on such proposition. Any special election shall be held in the manner provided in [section one hundred seventy-nine of the town law] ARTICLE EIGHTEEN OF THE ELECTION LAW, as amended from time to time.

S 5. Subdivision 6 of section 6-h of the general municipal law, as amended by chapter 592 of the laws of 1957, is amended to read as follows:

6. The governing board of a municipal corporation may, subject to a permissive referendum, authorize the transfer of a portion or all of such reserve to a capital reserve fund established pursuant to section six-c of [the general municipal law] THIS ARTICLE.

The board of fire commissioners of a fire district may, subject to the approval of the voters at a regular or special election in such district, in the manner provided in [section one hundred seventy-nine of the town law] ARTICLE EIGHTEEN OF THE ELECTION LAW, authorize the transfer of a portion or all of such reserve to a capital reserve fund established pursuant to section six-g [hereof] OF THIS ARTICLE.

S 6. Paragraph a of section 38.00 of the local finance law is amended to read as follows:

a. A bond resolution or a capital note resolution adopted by the finance board of a fire district shall not become effective unless it shall have been approved at a regular or special election of such district in the manner provided in [section one hundred and seventy-nine of the town law] ARTICLE EIGHTEEN OF THE ELECTION LAW, as amended from time to time.

S 7. Subdivision 16, the second undesignated paragraph of subdivision 18, and subdivision 23 of section 176 of the town law, subdivision 16 as amended by chapter 211 of the laws of 1958, the second undesignated paragraph of subdivision 18 as amended by chapter 28 of the laws of 1969, and subdivision 23 as amended by chapter 288 of the laws of 1997, are amended to read as follows:

16. May contract to provide outside of the fire district (1) fire protection, (2) emergency service in case of accidents, calamities or other emergencies, or (3) general ambulance service pursuant to the provisions of section two hundred nine-b of the general municipal law, upon such terms as the board of fire commissioners may determine proper, provided that such service can be supplied without undue hazard to the fire district furnishing the service. Whenever the fire department or fire company of a fire district provides any such service to outside territory pursuant to a contract, as aforesaid, the board of fire commissioners of such fire district may pay to the fire department of such fire district, or to any fire company or companies of such fire district, performing the service, such portion of the contract price as such board may deem proper, but not in any event to exceed thirty-five per centum of such contract price. The amount received pursuant to any such contract may be expended without being included in the amount that may be expended annually without the adoption of a proposition therefor as provided in subdivision [numbered] eighteen of this section [and in section one hundred seventy-nine of this chapter].

In addition to such expenditures, the board of fire commissioners of any fire district may, without the adoption of a proposition therefor, expend from the first district revenues for any fiscal year for purposes authorized by or pursuant to law not to exceed two thousand dollars and in districts having a full valuation of real property taxable for fire district purposes in excess of one million dollars an additional amount equivalent to one mill for each dollar of full valuation of taxable real property in excess of the first million dollars of full valuation of such taxable real property. Such full valuation shall, for the purposes of this subdivision, be computed by dividing the assessed valuation of the real property subject to taxation by the fire district, as shown on the assessment roll for the fire district which was completed in the second calendar year prior to that in which the expenditure is to be made, by the town equalization rate established for such roll by the state board of equalization and assessment. Where, in the case of a newly-created fire district, there is no such completed assessment roll for such fire district, full valuation shall be determined from the assessment roll upon which the real property included within the district was assessed for town purposes and which was completed in the second calendar year prior to that in which the expenditure is to be made. In any fire district the foregoing limitations provided in this subdivision may be exceeded if a proposition has been adopted [pursuant to paragraph (d) of subdivision one of section one hundred seventy-nine of this chapter].

23. May sell or otherwise dispose of real and personal property of the district no longer necessary for any of its uses or purposes if, when

and in the manner and to the extent authorized so to do in a proposition which is duly submitted and adopted or approved at a special or annual fire district election in the manner provided by [section one hundred seventy-nine] ARTICLE EIGHTEEN OF THE ELECTION LAW for voting upon appropriations, except that if a proposition shall be submitted [pursuant to the provisions of said section] for the purchase of apparatus or if a proposition shall be submitted pursuant to the local finance law for the approval of a bond resolution or a capital note resolution for obligations to be issued for the purchase of apparatus, such proposition may specify that apparatus or equipment owned by the district or the proceeds of the sale thereof is to be used in part payment for new apparatus and the adoption of such proposition shall authorize the sale or such other disposition of such apparatus or equipment, or if apparatus or equipment is to be purchased without the submission of a proposition as aforesaid apparatus or equipment owned by the district may be used as part payment for new apparatus or equipment without the adoption of a proposition therefor, and except also that the board of fire commissioners may at any time sell or otherwise dispose of real and personal property of the district no longer necessary for any of its uses or purposes if valued at less than fifty thousand dollars, if, when and in the manner and to the extent authorized so to do in a resolution which shall be subject to a permissive referendum governed in the manner provided in subdivision four of section six-g of the general municipal law and except also that the board of fire commissioners may at any time sell or otherwise dispose of real and personal property of the district no longer necessary for any of its uses or purposes without the adoption of a proposition therefor if the value of such real and personal property does not exceed the sum of ten thousand dollars.

S 8. Subdivision 3 of section 186 of the town law, as amended by chapter 774 of the laws of 1952, is amended to read as follows:

3. Every incorporated fire company, and every town fire company established and existing on June first, nineteen hundred thirty-three, pursuant to sections three hundred ten, three hundred eleven and three hundred twelve of article fourteen of chapter sixty-three of the laws of nineteen hundred nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," and acts amendatory thereof and supplemental thereto, which shall have its headquarters in any water district, water supply district, or highway district, and providing fire protection in such district on the first day of June, nineteen hundred thirty-three, shall continue to exist and may provide fire protection in such districts or any of them, and each such district shall constitute a fire protection district and be subject to all of the provisions of this chapter relating to fire protection districts, so far as the same do not conflict with the provisions of this subdivision. However, any water district, governed by district commissioners, providing fire protection pursuant to this subdivision shall constitute and be a fire district, with all powers and limitations of a fire district so far as the same do not conflict with the provisions of this subdivision. The town board of the town in which any such district is located may contract with any such incorporated fire company or town fire company for the furnishing of fire protection within such district and the amount of any such contract shall be assessed and levied upon the taxable property in such district and collected in the same manner as town charges are assessed, levied and collected. The funds so collected shall be paid by the collector to the supervisor of the town who shall apply the same in payment of the amount of such contract. The board of water commission-

ers, in the case of water districts to which the provisions of article thirteen of this chapter apply, or the town board of the town in the case of the other districts hereinbefore specified, shall have and may exercise any and all of the powers and duties of fire district commissioners as provided in subdivisions nine to twenty-five inclusive of section one hundred seventy-six of this chapter, and may purchase, equip and operate an ambulance for the benefit of the residents of the district and may, upon its own motion and shall, upon petition, cause to be submitted at a special or annual district election a proposition [in the manner and for any of the purposes specified in section one hundred seventy-nine of this chapter]. The board of water commissioners, if there be any, in the case of water districts, and the town board in the case of other districts shall annually prepare and file with the supervisor and town clerk of each town in which such district is located, an itemized and verified statement of the amount of moneys necessary to be raised in such district for fire purposes and the amount thereof shall be assessed and levied on the taxable property of such district, and collected, all in the manner provided in section one hundred eighty-one of this chapter. An annual financial statement setting forth in detail the receipts and expenditures of such district for fire purposes shall be filed by the board of water commissioners, if there be any, in the case of water districts and by the town board, in the case of all other districts, in the manner provided in section one hundred eighty-one.

S 9. This act shall take effect two years after it shall have become a law.