

# STATE OF NEW YORK

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7089

2017-2018 Regular Sessions

## IN ASSEMBLY

April 4, 2017

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Introduced by M. of A. MAGNARELLI -- (at request of the State Comptroller) -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law and the village law, in relation to fire protection contracts with incorporated fire companies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 22 of section 176 of the town law, as amended  
2 by chapter 167 of the laws of 1960, the first undesignated paragraph as  
3 amended by chapter 705 of the laws of 1967 and the closing paragraph as  
4 amended by chapter 520 of the laws of 1964, is amended to read as  
5 follows:

6 22. (a) May contract for the furnishing of fire protection within the  
7 fire district with any city, village, fire district, or incorporated  
8 fire company having its headquarters outside such fire district and  
9 maintaining adequate and suitable apparatus and appliances for the  
10 furnishing of fire protection in such district; provided there is no  
11 fire company maintaining its headquarters in said district or provided  
12 the fire department of said district is, in the judgment of such fire  
13 commissioners, unable to render adequate and prompt fire protection to  
14 such district or any area thereof. The contract also may provide for the  
15 furnishing of [~~(1)~~] (i) emergency service in case of accidents, calamities  
16 or other emergencies in connection with which the services of fire-  
17 men would be required and [~~(2)~~] (ii) general ambulance service subject,  
18 however, to the provisions of section two hundred nine-b of the general  
19 municipal law. In the event that the fire department or fire company  
20 furnishing fire protection within the district pursuant to contract does  
21 not maintain and operate an ambulance and provision has not otherwise  
22 been made for ambulance service for the area of the district pursuant to  
23 section one hundred twenty two-b of the general municipal law then a  
24 separate contract may be made for the furnishing within the district of

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

LBD10779-02-7

1 emergency ambulance service or general ambulance service, or both, with  
2 any city, village or fire district the fire department of which, or with  
3 an incorporated fire company having its headquarters outside the  
4 district which, maintains and operates an ambulance subject, however, in  
5 the case of general ambulance service, to the provisions of section two  
6 hundred nine-b of the general municipal law.

7 (b)(i) Except as provided in subparagraph (ii) of this paragraph,  
8 prior to commencing the negotiation process for such contract with an  
9 incorporated fire company, the incorporated fire company shall file with  
10 the board of fire commissioners a statement itemizing the estimated  
11 costs of the incorporated fire company attributable to the provision of  
12 services under the prospective contract. The estimated costs attribut-  
13 able to the provision of services under the prospective contract item-  
14 ized in the statement shall include, at a minimum, those, if any, for:  
15 supplies; materials; operation, maintenance and repair of equipment and  
16 apparatus; insurance; training; protective clothing, gear and other  
17 personnel costs; building rental, maintenance and operation; and a spec-  
18 ified proportionate share of capital costs. If the fire company is  
19 required to prepare any of the following documents, copies shall be  
20 included with the statement:

21 (1) the fire company's most recent annual report of directors pursuant  
22 to section five hundred nineteen of the not-for-profit corporation law;

23 (2) the fire company's most recent verified certificate pursuant to  
24 subdivision (f) of section fourteen hundred two of the not-for-profit  
25 corporation law;

26 (3) the fire company's most recent internal revenue service form 990;  
27 and

28 (4) the fire company's most recent annual report pursuant to section  
29 thirty-a of the general municipal law.

30 (ii) The provisions of subparagraph (i) of this paragraph shall not  
31 apply to the renewal of a contract when the contract is deemed renewed  
32 in accordance with paragraph (e) of this subdivision. Upon good cause  
33 shown, the board of fire commissioners may, by resolution, waive in  
34 whole or in part the requirement that the fire company file the state-  
35 ment, and copies of documents, required by subparagraph (i) of this  
36 paragraph.

37 (c) The contract shall not be entered into until a public hearing has  
38 been held by the board of fire commissioners. Notice of the hearing  
39 shall be published at least once in at least one newspaper having gener-  
40 al circulation in the district. The notice shall specify the time when  
41 and place where the hearing will be held, and describe in general terms  
42 the proposed contract. The first publication thereof shall be at least  
43 ten days prior to the day specified for the hearing.

44 (d) Except as hereinafter provided, the term of the contract shall be  
45 for a definite period of time, but in no event shall the term exceed  
46 five years. The contract year or years in all such contracts entered  
47 into after the year nineteen hundred sixty shall terminate on December  
48 thirty-first.

49 (e) Instead of being for a definite term as hereinabove provided, the  
50 contract may be for an original term of one calendar year or less and  
51 provide that it shall be deemed renewed on the same basis each year  
52 thereafter for a further term of one full calendar year without any  
53 further public hearing unless one of the contracting parties shall noti-  
54 fy the other in writing on or before the first day of August that it  
55 elects to terminate the contract on December thirty-first in that year.  
56 The term of any such contract, including renewals, shall not exceed five

1 years, but the contract may provide that there shall be less than four  
2 such renewals. If the city, village or fire district fire department or  
3 fire company which is to furnish the service under such a contract is  
4 not a fully paid department or company, the city, village or fire  
5 district governing board upon the request of the department or company,  
6 shall terminate the contract as provided in this paragraph. Any contract  
7 entered into pursuant to this paragraph may provide that in the month of  
8 July of each year in which such a renewal could occur the fire district  
9 secretary shall notify the secretary of the fire department or fire  
10 company which is to furnish the service under the contract that the  
11 contract shall be deemed renewed on the same basis for a further full  
12 term of one calendar year unless one of the contracting parties shall  
13 notify the other in writing on or before the first day of August that it  
14 elects to terminate the contract on December thirty-first in such year.

15 (f) The contract shall specify a definite sum to be paid each year for  
16 all of the services to be rendered thereunder and may provide that such  
17 amount shall be paid in one sum or in installments.

18 (g) By mutual consent of the contracting parties, and after a public  
19 hearing held pursuant to notice in the manner aforesaid, any such  
20 contract heretofore or hereafter executed may be [~~(1)~~] (i) amended,  
21 [~~(2)~~] (ii) terminated, or [~~(3)~~] (iii) terminated and a new contract may  
22 be entered into in lieu thereof, if the board of fire commissioners,  
23 after such hearing, shall determine by resolution, that it is in the  
24 public interest so to do. Such notice shall state in general terms the  
25 reason why any existing contract is to be amended or terminated, and if  
26 a new contract is to be entered into the notice shall also describe the  
27 new contract in general terms.

28 (h) The term "fire protection", as used in this subdivision, includes  
29 inspections of buildings and properties in the fire district for the  
30 purposes specified in and as authorized by section eight hundred seven-a  
31 of the education law, subdivision four of section three hundred three of  
32 the multiple residence law, and section one hundred eighty-nine of the  
33 town law.

34 (i) The provisions of this subdivision shall not be deemed to have  
35 amended subdivision two of section two hundred nine-b or section two  
36 hundred nine-d of the general municipal law, or any other general,  
37 special or local law requiring the consent of a fire department, fire  
38 company or an emergency rescue and first aid squad to the entering into  
39 of a contract for services to be performed by such department, company  
40 or squad.

41 § 2. Section 184 of the town law is amended by adding a new subdivi-  
42 sion 1-a to read as follows:

43 1-a. (a) Except as provided in paragraph (b) of this subdivision,  
44 prior to commencing the negotiation process for such contract with an  
45 incorporated fire company, the incorporated fire company shall file with  
46 the town board a statement itemizing the estimated costs of the incorpo-  
47 rated fire company attributable to the provision of services under the  
48 prospective contract. The estimated costs attributable to the provision  
49 of services under the prospective contract itemized in the statement  
50 shall include, at a minimum, those, if any, for: supplies; materials;  
51 operation, maintenance and repair of equipment and apparatus; insurance;  
52 training; protective clothing, gear and other personnel costs; building  
53 rental, maintenance and operation; and a specified proportionate share  
54 of capital costs. If the fire company is required to prepare any of the  
55 following documents, copies shall be included with the statement:

1 (1) the fire company's most recent annual report of directors pursuant  
2 to section five hundred nineteen of the not-for-profit corporation law;

3 (2) the fire company's most recent verified certificate pursuant to  
4 subdivision (f) of section fourteen hundred two of the not-for-profit  
5 corporation law;

6 (3) the fire company's most recent internal revenue service form 990;  
7 and

8 (4) the fire company's most recent annual report pursuant to section  
9 thirty-a of the general municipal law.

10 (b) The provisions of paragraph (a) of this subdivision shall not  
11 apply to the renewal of a contract when the contract is deemed renewed  
12 in accordance with subdivision four of this section. Upon good cause  
13 shown, the town board may, by resolution, waive in whole or in part the  
14 requirement that the fire company file the statement, and copies of  
15 documents, required by paragraph (a) of this subdivision.

16 § 3. Paragraph 9 of subdivision 3 of section 4-412 of the village law  
17 is amended by adding a new subparagraph a-1 to read as follows:

18 a-1. (i) Except as provided in clause (ii) of this subparagraph, prior  
19 to commencing the negotiation process for such contract with an incorpo-  
20 rated fire company, the incorporated fire company shall file with the  
21 board of trustees a statement itemizing the estimated costs of the  
22 incorporated fire company attributable to the provision of services  
23 under the prospective contract. The estimated costs attributable to the  
24 provision of services under the prospective contract itemized in the  
25 statement shall include, at a minimum, those, if any, for: supplies;  
26 materials; operation, maintenance and repair of equipment and apparatus;  
27 insurance; training; protective clothing, gear and other personnel  
28 costs; building rental, maintenance and operation; and a specified  
29 proportionate share of capital costs. If the fire company is required to  
30 prepare any of the following documents, copies shall be included with  
31 the statement:

32 (A) the fire company's most recent annual report of directors pursuant  
33 to section five hundred nineteen of the not-for-profit corporation law;

34 (B) the fire company's most recent verified certificate pursuant to  
35 subdivision (f) of section fourteen hundred two of the not-for-profit  
36 corporation law;

37 (C) the fire company's most recent internal revenue service form 990;  
38 and

39 (D) the fire company's most recent annual report pursuant to section  
40 thirty-a of the general municipal law.

41 (ii) Upon good cause shown, the board of trustees may, by resolution,  
42 waive in whole or in part the requirement that the fire company file the  
43 statement, and copies of documents, required by clause (i) of this  
44 subparagraph.

45 § 4. This act shall take effect on January first next succeeding the  
46 date on which it shall have become a law and shall apply to contracts  
47 with a term commencing after March first of the year in which it shall  
48 have become a law.