STATE OF NEW YORK

9940

IN ASSEMBLY

April 26, 2024

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law, in relation to permitting employees of a fire department to serve as fire chief or assistant fire chief

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

Section 1. Subdivision 11-a of section 176 of the town law, as amended by chapter 351 of the laws of 2000, is amended to read as follows:

11-a. The members of the fire department of the fire district shall meet at a time and place designated by the board of fire commissioners on the Thursday following the first Tuesday in April of each year and nominate persons **who may be employees of the district,** for the offices of chief and such assistant chiefs as may be provided for in the rules and regulations adopted by the board of fire commissioners. If the Thursday following the first Tuesday in April falls upon a day of special religious observance, the board of fire commissioners may designate any other weekday in April after such Thursday as the day upon which to hold such meeting. Each nominee shall be a member of the fire department. In addition, the board of fire commissioners may by resolution require that any or all of such fire department officers shall be residents of the fire district. All nominations shall be made by ballot. The person acting as secretary of such meeting shall promptly notify the fire district secretary in writing of such nominations. The board of fire commissioners at its meeting next succeeding the making of such nominations shall consider the same and shall appoint such persons**, who may be employees of the district,** to the offices to which they have been respectively nominated or, if a nomination is not approved the board of fire commissioners shall call another meeting of the members of the fire department at which a new nomination shall be made to take the place of any nomination not approved, which procedure shall continue until a full set of officers is approved. Any such person shall assume the duties of [~~his~~] **their** office as soon as [~~he~~] **such person** has been appointed thereto by the board of fire commissioners and shall serve until [~~his~~] **a**

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

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successor is appointed. A person who has been convicted of arson in any degree shall not be eligible for nomination, election or appointment to the office of fire department chief or assistant chief. Any fire department chief or assistant chief who is convicted of arson in any degree during [~~his~~] **their** term of office shall be disqualified from completing such term of office.

§ 2. Subdivision 11-b of section 176 of the town law, as amended by chapter 295 of the laws of 2021, is amended to read as follows:

11-b. The members of the fire department at a regular or special meeting of the department held after the month of April but prior to the month of November in any year may adopt a resolution recommending that future meetings for the nomination of the chief and assistant chiefs be held in December, either on the first Thursday, the first Saturday, the Thursday following the first Tuesday, the Saturday following the first Tuesday, the Thursday following the second Tuesday, or the Saturday following the second Tuesday in such month, instead of April as provided in subdivision eleven-a of this section. Provided, however, the Davis Park fire department may adopt a resolution to hold future meetings, for nomination of chief and assistant chiefs, on the last Sunday in September; the Caton fire district may adopt a resolution to hold future meetings, for nominations of chief and assistant chiefs, on the second Tuesday in December; the Cherry Grove fire department may adopt a resolution to hold future meetings, for nomination of the chief and assistant chiefs, on the third Saturday in September; and the Fair Harbor fire department may adopt a resolution to hold future meetings, for nomination of the chief and assistant chiefs, on the third Sunday in September. The notice or call for such meeting shall specify that such a resolution will be offered to be voted upon at such meeting. If such resolution is adopted, the board of fire commissioners may adopt a rule or regulation providing that future meetings for the nomination of chief and assistant chiefs shall be held in December, either on the first Thursday, the first Saturday, the Thursday following the first Tuesday, the Saturday following the first Tuesday, the Thursday following the second Tuesday, the Saturday following the second Tuesday in such month, the last Sunday in September in the Davis Park fire department, the second Tuesday in December in the Caton fire district, the third Saturday in September in the Cherry Grove fire department, or the third Sunday in September in the Fair Harbor fire department, as specified in the fire department resolution, instead of April as provided in subdivision eleven-a of this section. Each nominee shall be a member of the fire department. In addition, the board of fire commissioners may by resolution require that any or all of such fire department officers shall be residents of the fire district. All nominations shall be made by ballot. The person acting as secretary of such meeting shall promptly notify the fire district secretary in writing of such nominations. The board of fire commissioners at its organization meeting in the month of January next succeeding the making of such nominations shall consider the same and shall appoint such persons**, who may be employees of the district,** to the offices to which they have been respectively nominated or, if a nomination is not approved the board of fire commissioners shall call another meeting of the members of the fire department at which a new nomination shall be made to take the place of any nomination not approved, which procedure shall continue until a full set of officers is approved. Any such person shall assume the duties of [~~his~~] **their** office as soon as [~~he~~] **such person** has been appointed thereto by the board of fire commissioners and shall serve until [~~his~~] **a** successor is

appointed. A person who has been convicted of arson in any degree shall not be eligible for nomination, election or appointment to the office of fire department chief or assistant chief. Any fire department chief or assistant chief who is convicted of arson in any degree during [~~his~~] **their** term of office shall be disqualified from completing such term of office.

If the date of meetings for the nomination of chief and assistant chiefs is changed from April to September or December pursuant to the foregoing provisions of this subdivision, the members of the fire department at a regular or special meeting of the department held after the month of April but prior to the month of November in any year may adopt a resolution recommending that future meetings for the nomination for such officers shall be held in April pursuant to the provisions of subdivision eleven-a of this section. The call for such meeting shall specify that such a resolution will be offered to be voted upon at such meeting. If such a resolution is adopted, the board of fire commissioners may adopt a rule or regulation providing that future meetings for the nomination of chief and assistant chiefs shall be held in April pursuant to the provisions of subdivision eleven-a of this section and that the provisions of such subdivision eleven-a shall again become applicable.

§ 3. Subdivision 1 of section 176-a of the town law, as amended by chapter 511 of the laws of 1974, is amended to read as follows:

1. The chief shall, under the direction of the board of fire commissioners, have exclusive control of the members of the fire department of the fire district at all fires, inspections, reviews and other occasions when the fire department is on duty or parade[~~; he~~]**. The chief** shall also have supervision of the engines, fire trucks, pumpers, hose wagons and other apparatus and of the equipment and other property used for the prevention or extinguishment of fire and of all officers and employees of the fire department**; provided, however, that if the chief or assistant chief is an employee of the district, the board of fire commissioners shall have supervisory authority over such chief or assistant chief with regard to their duties as an employee of the district**. [~~He~~] **The chief** shall see that the rules and regulations of the board of fire commissioners are observed and that the orders of the board of fire commissioners are duly executed. [~~He~~] **The chief** shall, whenever required by the board of fire commissioners, report to said board the condition of the property of said fire district and such other information as may be required [~~of him~~] **by the board**. [~~He~~] **The chief** shall hold the members, officers and employees of the fire department strictly to account for neglect of duty and may suspend them for improper conduct, subject to the action of the board of fire commissioners at its next meeting. In case of the disability or absence of the chief, the first assistant chief, and in the case of the disability or absence of both the chief and first assistant chief, the other assistants, in numerical order, shall perform the duties and exercise the powers of the chief. When the fire department or any company or squad thereof is on duty no member of the board of fire commissioners shall interfere with the duties of the chief or assistant chief.

§ 4. This act shall take effect immediately.