STATE OF NEW YORK

1068

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to exempting the East Dunkirk Volunteer Fire Company, Inc. from the requirement that the percentage of non-resident fire department members not exceed forty-five percent of the membership

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

Section 1. Subparagraph 3 of paragraph (c) of section 1402 of the not-for-profit corporation law, as separately amended by chapters 308, 312 and 327 of the laws of 2022, is amended to read as follows:

(3) In towns outside of villages and fire districts, the consent of a majority of the members of the town board to the formation of a fire corporation shall constitute an appointment of the persons named in the certificate of incorporation as town firefighters. Thereafter, other eligible persons may be elected as members pursuant to the by-laws of the fire corporation, but the election of a member must be approved by the town board of each town which consented to the formation of the fire corporation. Such a person shall be a resident of the territory specified in the certificate of incorporation or of territory outside such boundaries which is afforded fire protection by the fire corporation pursuant to a contract for fire protection under which a cash consideration is received by the corporation or for which negotiations for renewal of such a contract are pending. The membership of any volunteer member shall terminate when he or she ceases to be a resident of such inside or outside territory, except that the corporation may authorize his or her continued membership where he or she notifies the secretary of the fire corporation (a) that he or she plans to change his or her residence to a territory which is not in such inside or outside territory, and (b) that by reason of his or her residence in the vicinity or

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

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his or her usual occupation he or she will be available to render active service as a volunteer firefighter in either such inside or such outside territory. Voting for such authorization shall be pursuant to the by-laws. Such authorization shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Any membership so continued shall terminate when the member can no longer meet the requirements of this subparagraph. A person who cannot meet the residence requirements of this subparagraph may be elected to membership as a volunteer member if by reason of his or her residence in the vicinity or his or her usual occupation he or she will be available to render active service as a volunteer firefighter in such inside or outside territory. Voting for such election shall be pursuant to the by-laws. Such election shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Such membership shall terminate when the member can no longer meet the requirements of this subparagraph. The election or continuance of any person as a member shall be deemed to have been approved by the town board pursuant to this subparagraph in the event that no action is taken by the town board, either approving or disapproving, within forty days in the case of residents of the territory specified in the certificate of incorporation or of outside contract territory, and within seventy days in the case of all others, after service of written notice of such election or continuance of membership shall have been made by the secretary of the corporation upon the town clerk, either personally or by mail. The membership of any volunteer firefighter shall not be continued pursuant to this subparagraph, and persons who do not reside in the territory specified in the certificate of incorporation or in territory protected pursuant to a contract for fire protection shall not be elected to membership, if, by so doing, the percentage of such nonresident members in the fire corporation would exceed forty-five per centum of the actual membership thereof, provided, however, that the forty-five percent limit on non-resident members shall not apply to the membership of the Huguenot Fire Company, Inc., within the town of Deerpark, Orange county, to the membership of the Prospect Terrace Fire Company, Inc., within the town of Dickinson, Broome county, to membership of the Hopewell Volunteer Fire Department, Inc., to membership of the Wales Center Volunteer Fire Company, Inc., within the town of Wales, Erie county, to the membership of the Nedrow Fire Department, within the town of Onondaga, Onondaga county, to the membership of the Howlett Hill Fire Department, within the town of Onondaga, Onondaga county, to the membership of the East Syracuse Fire Department, within the town of Dewitt, Onondaga county, to the membership of the Camillus Volunteer Fire Department, Inc., within the town of Camillus, Onondaga county, to the membership of the Pleasant Square Fire Company, Inc. within the town of Johnstown, Fulton county, to the membership of the East Amherst Fire Department, Inc., within the town of Amherst, Erie county, to membership of the fire departments within the town of Fleming, Cayuga county [~~or~~], to membership of the Bushnell's Basin Fire Department, in the town of Perinton, Monroe county**, to the membership of the East Dunkirk Volunteer Fire Company, Inc. within the town of Dunkirk, Chautauqua county** or to membership of the Salina Consolidated Fire District #2, in the town of Salina, Onondaga county. Nonresidents of the territory specified in the certificate of incorporation whose volunteer membership has been authorized or continued pursuant to this subparagraph may be elected or appointed to any office in the fire corporation and shall have all the

powers, duties, immunities, and privileges of resident volunteer members except a non-resident of this state whose membership has been continued pursuant to this subparagraph, or who was elected to membership pursuant to this subparagraph, shall not be considered to be performing any fire-fighting duty, or to be engaged in any firefighting activity, as a member of the fire company while he or she is outside of this state unless and until he or she has first reported to the officer or fire-fighter in command of his or her fire department, or any company, squad or other unit thereof, engaged or to be engaged in rendering service outside this state, or has received orders or authorization from an officer of the fire department or fire company to participate in or attend authorized activities outside of this state in the same manner as resident members of the fire company. A person shall not be eligible to volunteer membership in any other fire corporation or fire company at one time. The provisions of this subparagraph shall not be deemed to authorize the election or the continuance of any person as a member of the corporation if such election or continuance of membership shall be contrary to the by-laws, rules or regulations of the fire corporation.

§ 2. This act shall take effect immediately.