

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:

1 Section 1. Subparagraph 3 of paragraph (c) of section 1402 of the
2 not-for-profit corporation law, as separately amended by chapters 308,
3 312 and 327 of the laws of 2022, is amended to read as follows:
4 (3) In towns outside of villages and fire districts, the consent of a
5 majority of the members of the town board to the formation of a fire
6 corporation shall constitute an appointment of the persons named in the
7 certificate of incorporation as town firefighters. Thereafter, other
8 eligible persons may be elected as members pursuant to the by-laws of
9 the fire corporation, but the election of a member must be approved by
10 the town board of each town which consented to the formation of the fire
11 corporation. Such a person shall be a resident of the territory speci-
12 fied in the certificate of incorporation or of territory outside such
13 boundaries which is afforded fire protection by the fire corporation
14 pursuant to a contract for fire protection under which a cash consider-
15 ation is received by the corporation or for which negotiations for
16 renewal of such a contract are pending. The membership of any volunteer
17 member shall terminate when he or she ceases to be a resident of such
18 inside or outside territory, except that the corporation may authorize
19 his or her continued membership where he or she notifies the secretary
20 of the fire corporation (a) that he or she plans to change his or her
21 residence to a territory which is not in such inside or outside territo-
22 ry, 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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1 his or her usual occupation he or she will be available to render active
2 service as a volunteer firefighter in either such inside or such outside
3 territory. Voting for such authorization shall be pursuant to the
4 by-laws. Such authorization shall not become effective unless approved
5 by resolution of the town board of each town which consented to the
6 formation of the corporation. Any membership so continued shall termi-
7 nate when the member can no longer meet the requirements of this subpar-
8 agraph. A person who cannot meet the residence requirements of this
9 subparagraph may be elected to membership as a volunteer member if by
10 reason of his or her residence in the vicinity or his or her usual occu-
11 pation he or she will be available to render active service as a volun-
12 teer firefighter in such inside or outside territory. Voting for such
13 election shall be pursuant to the by-laws. Such election shall not
14 become effective unless approved by resolution of the town board of each
15 town which consented to the formation of the corporation. Such member-
16 ship shall terminate when the member can no longer meet the requirements
17 of this subparagraph. The election or continuance of any person as a
18 member shall be deemed to have been approved by the town board pursuant
19 to this subparagraph in the event that no action is taken by the town
20 board, either approving or disapproving, within forty days in the case
21 of residents of the territory specified in the certificate of incorpo-
22 ration or of outside contract territory, and within seventy days in the
23 case of all others, after service of written notice of such election or
24 continuance of membership shall have been made by the secretary of the
25 corporation upon the town clerk, either personally or by mail. The
26 membership of any volunteer firefighter shall not be continued pursuant
27 to this subparagraph, and persons who do not reside in the territory
28 specified in the certificate of incorporation or in territory protected
29 pursuant to a contract for fire protection shall not be elected to
30 membership, if, by so doing, the percentage of such nonresident members
31 in the fire corporation would exceed forty-five per centum of the actual
32 membership thereof, provided, however, that the forty-five percent limit
33 on non-resident members shall not apply to the membership of the Hugen-
34 ot Fire Company, Inc., within the town of Deerpark, Orange county, to
35 the membership of the Prospect Terrace Fire Company, Inc., within the
36 town of Dickinson, Broome county, to membership of the Hopewell Volun-
37 teer Fire Department, Inc., to membership of the Wales Center Volunteer
38 Fire Company, Inc., within the town of Wales, Erie county, to the
39 membership of the Nedrow Fire Department, within the town of Onondaga,
40 Onondaga county, to the membership of the Howlett Hill Fire Department,
41 within the town of Onondaga, Onondaga county, to the membership of the
42 East Syracuse Fire Department, within the town of Dewitt, Onondaga coun-
43 ty, to the membership of the Camillus Volunteer Fire Department, Inc.,
44 within the town of Camillus, Onondaga county, to the membership of the
45 Pleasant Square Fire Company, Inc. within the town of Johnstown, Fulton
46 county, to the membership of the East Amherst Fire Department, Inc.,
47 within the town of Amherst, Erie county, to membership of the fire
48 departments within the town of Fleming, Cayuga county [~~ex~~], to member-
49 ship of the Bushnell's Basin Fire Department, in the town of Perinton,
50 Monroe county, to the membership of the East Dunkirk Volunteer Fire
51 Company, Inc. within the town of Dunkirk, Chautauqua county or to
52 membership of the Salina Consolidated Fire District #2, in the town of
53 Salina, Onondaga county. Nonresidents of the territory specified in the
54 certificate of incorporation whose volunteer membership has been author-
55 ized or continued pursuant to this subparagraph may be elected or
56 appointed to any office in the fire corporation and shall have all the

1 powers, duties, immunities, and privileges of resident volunteer members
2 except a non-resident of this state whose membership has been continued
3 pursuant to this subparagraph, or who was elected to membership pursuant
4 to this subparagraph, shall not be considered to be performing any fire-
5 fighting duty, or to be engaged in any firefighting activity, as a
6 member of the fire company while he or she is outside of this state
7 unless and until he or she has first reported to the officer or fire-
8 fighter in command of his or her fire department, or any company, squad
9 or other unit thereof, engaged or to be engaged in rendering service
10 outside this state, or has received orders or authorization from an
11 officer of the fire department or fire company to participate in or
12 attend authorized activities outside of this state in the same manner as
13 resident members of the fire company. A person shall not be eligible to
14 volunteer membership in any other fire corporation or fire company at
15 one time. The provisions of this subparagraph shall not be deemed to
16 authorize the election or the continuance of any person as a member of
17 the corporation if such election or continuance of membership shall be
18 contrary to the by-laws, rules or regulations of the fire corporation.
19 § 2. This act shall take effect immediately.