

# STATE OF NEW YORK

9026

## IN SENATE

April 10, 2024

Introduced by Sen. PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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:

1 Section 1. Subdivision 11-a of section 176 of the town law, as  
2 amended by chapter 351 of the laws of 2000, is amended to read as  
3 follows:  
4 11-a. The members of the fire department of the fire district shall  
5 meet at a time and place designated by the board of fire commissioners  
6 on the Thursday following the first Tuesday in April of each year and  
7 nominate persons who may be employees of the district, for the offices  
8 of chief and such assistant chiefs as may be provided for in the rules  
9 and regulations adopted by the board of fire commissioners. If the  
10 Thursday following the first Tuesday in April falls upon a day of  
11 special religious observance, the board of fire commissioners may desig-  
12 nate any other weekday in April after such Thursday as the day upon  
13 which to hold such meeting. Each nominee shall be a member of the fire  
14 department. In addition, the board of fire commissioners may by resol-  
15 ution require that any or all of such fire department officers shall be  
16 residents of the fire district. All nominations shall be made by ballot.  
17 The person acting as secretary of such meeting shall promptly notify the  
18 fire district secretary in writing of such nominations. The board of  
19 fire commissioners at its meeting next succeeding the making of such  
20 nominations shall consider the same and shall appoint such persons, who  
21 may be employees of the district, to the offices to which they have been  
22 respectively nominated or, if a nomination is not approved the board of  
23 fire commissioners shall call another meeting of the members of the fire  
24 department at which a new nomination shall be made to take the place of  
25 any nomination not approved, which procedure shall continue until a full  
26 set of officers is approved. Any such person shall assume the duties of  
27 [~~his~~] their office as soon as [~~he~~] such person has been appointed there-  
28 to 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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1 successor is appointed. A person who has been convicted of arson in any  
2 degree shall not be eligible for nomination, election or appointment to  
3 the office of fire department chief or assistant chief. Any fire depart-  
4 ment chief or assistant chief who is convicted of arson in any degree  
5 during [~~his~~] their term of office shall be disqualified from completing  
6 such term of office.

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

9 11-b. The members of the fire department at a regular or special meet-  
10 ing of the department held after the month of April but prior to the  
11 month of November in any year may adopt a resolution recommending that  
12 future meetings for the nomination of the chief and assistant chiefs be  
13 held in December, either on the first Thursday, the first Saturday, the  
14 Thursday following the first Tuesday, the Saturday following the first  
15 Tuesday, the Thursday following the second Tuesday, or the Saturday  
16 following the second Tuesday in such month, instead of April as provided  
17 in subdivision eleven-a of this section. Provided, however, the Davis  
18 Park fire department may adopt a resolution to hold future meetings, for  
19 nomination of chief and assistant chiefs, on the last Sunday in Septem-  
20 ber; the Caton fire district may adopt a resolution to hold future meet-  
21 ings, for nominations of chief and assistant chiefs, on the second Tues-  
22 day in December; the Cherry Grove fire department may adopt a resolution  
23 to hold future meetings, for nomination of the chief and assistant  
24 chiefs, on the third Saturday in September; and the Fair Harbor fire  
25 department may adopt a resolution to hold future meetings, for nomi-  
26 nation of the chief and assistant chiefs, on the third Sunday in Septem-  
27 ber. The notice or call for such meeting shall specify that such a  
28 resolution will be offered to be voted upon at such meeting. If such  
29 resolution is adopted, the board of fire commissioners may adopt a rule  
30 or regulation providing that future meetings for the nomination of chief  
31 and assistant chiefs shall be held in December, either on the first  
32 Thursday, the first Saturday, the Thursday following the first Tuesday,  
33 the Saturday following the first Tuesday, the Thursday following the  
34 second Tuesday, the Saturday following the second Tuesday in such month,  
35 the last Sunday in September in the Davis Park fire department, the  
36 second Tuesday in December in the Caton fire district, the third Satur-  
37 day in September in the Cherry Grove fire department, or the third  
38 Sunday in September in the Fair Harbor fire department, as specified in  
39 the fire department resolution, instead of April as provided in subdivi-  
40 sion eleven-a of this section. Each nominee shall be a member of the  
41 fire department. In addition, the board of fire commissioners may by  
42 resolution require that any or all of such fire department officers  
43 shall be residents of the fire district. All nominations shall be made  
44 by ballot. The person acting as secretary of such meeting shall promptly  
45 notify the fire district secretary in writing of such nominations. The  
46 board of fire commissioners at its organization meeting in the month of  
47 January next succeeding the making of such nominations shall consider  
48 the same and shall appoint such persons, who may be employees of the  
49 district, to the offices to which they have been respectively nominated  
50 or, if a nomination is not approved the board of fire commissioners  
51 shall call another meeting of the members of the fire department at  
52 which a new nomination shall be made to take the place of any nomination  
53 not approved, which procedure shall continue until a full set of offi-  
54 cers is approved. Any such person shall assume the duties of [~~his~~] their  
55 office as soon as [~~he~~] such person has been appointed thereto by the  
56 board of fire commissioners and shall serve until [~~his~~] a successor is

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

7 If the date of meetings for the nomination of chief and assistant  
8 chiefs is changed from April to September or December pursuant to the  
9 foregoing provisions of this subdivision, the members of the fire  
10 department at a regular or special meeting of the department held after  
11 the month of April but prior to the month of November in any year may  
12 adopt a resolution recommending that future meetings for the nomination  
13 for such officers shall be held in April pursuant to the provisions of  
14 subdivision eleven-a of this section. The call for such meeting shall  
15 specify that such a resolution will be offered to be voted upon at such  
16 meeting. If such a resolution is adopted, the board of fire commission-  
17 ers may adopt a rule or regulation providing that future meetings for  
18 the nomination of chief and assistant chiefs shall be held in April  
19 pursuant to the provisions of subdivision eleven-a of this section and  
20 that the provisions of such subdivision eleven-a shall again become  
21 applicable.

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

24 1. The chief shall, under the direction of the board of fire commis-  
25 sioners, have exclusive control of the members of the fire department of  
26 the fire district at all fires, inspections, reviews and other occasions  
27 when the fire department is on duty or parade[~~, he~~]. The chief shall  
28 also have supervision of the engines, fire trucks, pumpers, hose wagons  
29 and other apparatus and of the equipment and other property used for the  
30 prevention or extinguishment of fire and of all officers and employees  
31 of the fire department; provided, however, that if the chief or assist-  
32 ant chief is an employee of the district, the board of fire commission-  
33 ers shall have supervisory authority over such chief or assistant chief  
34 with regard to their duties as an employee of the district. [~~He~~] The  
35 chief shall see that the rules and regulations of the board of fire  
36 commissioners are observed and that the orders of the board of fire  
37 commissioners are duly executed. [~~He~~] The chief shall, whenever  
38 required by the board of fire commissioners, report to said board the  
39 condition of the property of said fire district and such other informa-  
40 tion as may be required [~~of him~~] by the board. [~~He~~] The chief shall  
41 hold the members, officers and employees of the fire department strictly  
42 to account for neglect of duty and may suspend them for improper  
43 conduct, subject to the action of the board of fire commissioners at its  
44 next meeting. In case of the disability or absence of the chief, the  
45 first assistant chief, and in the case of the disability or absence of  
46 both the chief and first assistant chief, the other assistants, in  
47 numerical order, shall perform the duties and exercise the powers of the  
48 chief. When the fire department or any company or squad thereof is on  
49 duty no member of the board of fire commissioners shall interfere with  
50 the duties of the chief or assistant chief.

51 § 4. This act shall take effect immediately.