S T A T E O F N E W Y O R K

4359--A

Cal. No. 444

2011-2012 Regular Sessions

I N S E N A T E

March 31, 2011

Introduced by Sens. YOUNG, BRESLIN, KENNEDY, O'MARA, VALESKY -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law, in relation to municipal annexation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The section heading of section 703 of the general municipal law, as added by chapter 844 of the laws of 1963, is amended to read as follows:

Petition [for annexation] BY RESIDENTS OR PROPERTY OWNERS TO INITIATE ANNEXATION OF TERRITORY.

S 2. The general municipal law is amended by adding a new section 703-a to read as follows:

S 703-A. RESOLUTION BY GOVERNING BOARDS OF MUNICIPALITIES TO INITIATE ANNEXATION OF TERRITORY. EXCEPT FOR TERRITORY PROPOSED TO BE ANNEXED WHICH IS ENTIRELY UNINHABITED OR TERRITORY IN AN AGRICULTURAL DISTRICT, OR OUTSIDE OF SUCH DISTRICT BUT ELIGIBLE FOR AN AGRICULTURAL ASSESSMENT, PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW, THE GOVERNING BOARDS OF TWO OR MORE MUNICIPALITIES WHICH HAVE MUTUALLY AGREED TO STUDY THE ANNEXATION OF TERRITORY, MAY, BY JOINT RESOLUTION, PROPOSE THE ANNEXATION OF SUCH TERRITORY, PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

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

LBD09868-05-2

S 3. The section heading and subdivision 1 of section 704 of the general municipal law, as added by chapter 844 of the laws of 1963, are amended to read as follows:

Notice of hearing on petition [for] OR JOINT RESOLUTION TO INITIATE annexation OF TERRITORY. 1. [Within twenty days after the receipt of such petition] IN THE EVENT IT IS PROPOSED TO ANNEX TERRITORY, the governing board or boards of the local government or governments to which it is proposed to annex such territory and the governing board or boards of the affected local government or governments in which such territory is situated shall, WITHIN TWENTY DAYS AFTER RECEIPT OF A PETITION OR ADOPTION OF A JOINT RESOLUTION TO INITIATE ANNEXATION, respectively cause a notice to be published once in its or their official newspapers, or, if there be no official newspaper, in a newspaper published in the county and having general circulation within the area of such local government or governments, as the case may be. The governing board of each affected local government in which such territory is situated also shall cause a copy of such notice to be mailed to each person or corporation owning real property in such territory as shown by the last preceding assessment roll and to all persons residing in such territory qualified to vote for officers of the city, town or village, as the case may be, in which such territory is situated as their names appear upon the register of voters for the last preceding general election. Where the territory to be annexed is situated wholly or partly within a village, the governing board of such village and the governing board of a town or towns in which such territory is wholly or partly situated may provide by agreement for joint publication and mailing of such notice. Failure to mail such notice or failure of any addressee to receive the same shall not in any manner affect the validity of the petition OR JOINT RESOLUTION TO INITIATE ANNEXATION OF TERRITORY or of any proceedings taken thereon PROVIDED THAT THE MUNICIPALITIES THAT ADOPTED A JOINT RESOLUTION TO INITIATE ANNEXATION HAVE DEMONSTRATED A GOOD FAITH ATTEMPT TO MAIL SUCH NOTICE TO EACH PERSON OR CORPORATION OWNING REAL PROPERTY AS REQUIRED BY THIS SECTION. Such notice shall state that a petition for the annexation of territory OR A JOINT RESOLUTION TO INITIATE ANNEXATION OF TERRITORY to the local government or governments (naming it or them and briefly describing the territory proposed to be annexed thereto) has been [received] PROPOSED, that at a specified place in one of such local governments on a specified day not less than twenty days nor more than forty days after the publication and mailing of such notice, which place and date shall be specified therein, a joint hearing will be had upon such petition OR JOINT RESOLUTION TO INITIATE ANNEXATION by such governing boards. Each of such governing boards shall cause a copy of such notice to be mailed not less than ten days prior to the date of such joint hearing to the school authorities of any school district in which all or part of the territory proposed to be annexed is situated and, where it is proposed to annex territory to a city, to the school authorities of any school district (a) adjoining the territory proposed to be annexed and (b) located wholly or partly within such city. EACH OF SUCH GOVERNING BOARDS SHALL ALSO CAUSE A COPY OF SUCH NOTICE TO BE POSTED ON THE WEBSITE OF THE LOCAL GOVERNMENT, IF ONE EXISTS.

S 4. Section 707 of the general municipal law, as added by chapter 844 of the laws of 1963, is amended to read as follows:

S 707. Disposition of property in area proposed to be annexed. 1. Except as may be provided in an agreement among the affected local governments, as authorized by subdivision two of this section concerning

the retention, division, REGULATION, LAND USE or other disposition of real and personal property and rights in real and personal property of any affected local government or governments or any special or improvement district in the territory proposed to be annexed, all real or personal property and rights in real and personal property, including, but not limited to, LAND USE, streets, avenues, roads, highways, bridges, overpasses, underpasses, culverts, sidewalks, street lighting fixtures, and conduits, pipes, drains, either above or below the ground surface, and appurtenances and appurtenant rights in relation thereto, owned by any of such local governments (other than the one to which such territory is annexed) shall become the property of the county, city, village, or town (where the territory is not annexed to a village or villages in the town), to which such territory is annexed as of the date of such annexation, but the ownership of any real and personal property or rights in real and personal property of, or acquired for, special or improvement districts in such territory shall remain unaffected.

2. At any time prior to their determinations as provided by section seven hundred eleven of this article, the governing boards of the affected local governments, or their designated representatives, shall have power to agree on the retention, division, REGULATION, LAND USE or other disposition, either with or without consideration, of real or personal property and rights in real or personal property of any such affected local government or of any special or improvement districts in which the territory proposed to be annexed is situated. Any such agreement shall be in writing and shall be executed by such governing boards, or their designated representatives, covering the matters agreed upon. Such agreement may provide for the execution of any deeds or instruments affecting the retention, division, REGULATION, LAND USE or other disposition of such property, either with or without consideration. Any such agreement shall be followed in the local law to be adopted pursuant to section seven hundred fourteen of this article.

S 5. Subdivisions 1 and 2 of section 711 of the general municipal law, as added by chapter 844 of the laws of 1963, are amended to read as follows:

1. Within ninety days after the hearing held pursuant to section seven hundred five OF THIS ARTICLE is concluded, the governing board of each affected local government shall determine by a majority vote of its total voting strength whether the petition OR JOINT RESOLUTION TO INITIATE ANNEXATION complies with the provisions of this article and whether, on the basis of considerations including but not limited to those relating to the effects upon (a) the territory proposed to be annexed, (b) the local government or governments to which the territory is proposed to be annexed, (c) the remaining area of the local government or governments in which the territory is situated and (d) any school district, fire district or other district corporation, public benefit corporation, fire protection district, fire alarm district or town or county improvement district, situated wholly or partly in such territory, it is in the over-all public interest to approve such proposed annexation.

2. a. At such time, each such governing board shall adopt a resolution which shall include findings with respect to compliance of the petition OR JOINT RESOLUTION TO INITIATE ANNEXATION, with the provisions of this article and with respect to the effect of such proposed annexation on the over-all public interest. In the case of a governing board which has executed any agreement described in subdivision two of section seven hundred seven or subdivision two of section seven hundred eight of this article relating to the assumption of indebtedness or other liabilities

or the disposition of property rights in the event of annexation, its findings with respect to the effect of such annexation on the over-all public interest shall be based on and include the terms and conditions of such agreement to the extent applicable. Where no agreement as described herein governs the assumption of indebtedness or other liabilities or the disposition of property, such findings shall be based on and include provisions concerning such assumption or disposition prescribed in subdivision one of section seven hundred seven or subdivision one of section seven hundred eight of this article, as the case may be.

b. Each such board shall thereupon make and sign a written order accordingly containing its determination and file copies thereof, together with copies of the agreement, if any, the petition OR JOINT RESOLUTION TO INITIATE ANNEXATION, the notice, the written objections, if any, and testimony and minutes of proceedings taken and kept on the hearing, in the offices of the clerks of all the affected local governments. In the event that the governing board of an affected local government does not make, sign and file a written order as required by this section, such governing board shall be deemed to have approved the proposed annexation as of the expiration of the ninety-day period provided in subdivision one [hereof] OF THIS SECTION.

S 6. Subdivisions 1 and 2 of section 713 of the general municipal law, as added by chapter 844 of the laws of 1963, is amended to read as follows:

1. Not later than ninety days after the entry of a final judgment of a court or the filing in the offices of the clerks of the affected local governments of orders of the governing boards of such affected local governments approving a proposed annexation, the governing board of each city, town and village in which such territory is situated shall call a special election to be conducted in the manner hereinafter provided to determine whether the proposed annexation should be approved, provided, however, that the governing board of a town shall call such election only with respect to territory outside any village situated therein. All persons residing in such territory proposed to be annexed, OR RESIDING OUTSIDE OF THE TERRITORY PROPOSED TO BE ANNEXED BUT RESIDING ON A PARCEL OF LAND WHERE A PORTION OF SUCH PARCEL IS WITHIN SUCH TERRITORY PROPOSED TO BE ANNEXED, and qualified to vote for officers of the city, town or village, as the case may be, in which such territory is situated shall be entitled to vote. The proposition to be voted upon shall state "Shall the territory generally described below be annexed to the ..... (name of local government or governments)?" Below such question the territory proposed to be annexed shall be briefly described. Except as otherwise provided herein, such election shall be conducted in the manner provided by law for the conduct of special elections in the city, town or village, as the case may be, in which such territory is situated.

2. If such proposition is approved by a majority of the qualified persons voting thereon, the petition OR JOINT RESOLUTION, together with a certificate of election which shall set forth or have annexed thereto a description of the territory to be annexed, shall, within twenty days after such election be filed by the governing board or boards of the city, town or village, as the case may be, in the office of the clerk of such local government or governments and in the office of the clerk or clerks of the local government or governments to which such territory is to be annexed.

S 7. This act shall take effect immediately.