

STATE OF NEW YORK

5793

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

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

AN ACT to amend the village law, in relation to the requirements for village incorporation

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

1 Section 1. Paragraph b of subdivision 1 of section 2-202 of the
2 village law is amended by adding two new subparagraphs 7 and 8 to read
3 as follows:

4 (7) An allegation that such proposed incorporation is in the overall
5 public interest of each of the following: (i) the territory petitioning
6 to be incorporated, (ii) any remaining area of the town or towns in
7 which such territory is located, and (iii) any school district, fire
8 district, fire protection district, or town improvement district located
9 wholly or partly within such territory.

10 (8) An allegation that such proposed incorporation is consistent with
11 and would not substantially impair the achievement of the goals and
12 objectives set forth in the adopted comprehensive or master plan enacted
13 by the town or towns located within the territory pursuant to section
14 two hundred seventy-two-a of the town law.

15 § 2. Section 2-204 of the village law, as amended by section 25 of
16 part X of chapter 62 of the laws of 2003, is amended to read as follows:

17 § 2-204 Notice of hearing. Within twenty days after the filing of such
18 petition or copies thereof, each supervisor with whom same were filed
19 shall cause to be posted in five public places in that part of such
20 territory located in his or her town, and also to be posted in at least
21 five public places in the remaining territory of such town, including
22 other incorporated villages also located in such town, and also to be
23 published at least twice in the newspaper or newspapers designated
24 pursuant to subdivision eleven of section sixty-four of the town law, a
25 joint notice of all such supervisors: that a petition for the incorpo-

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

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1 ration of the village of (naming it) has been received; that at a place
2 in such territory and on a day, not less than twenty nor more than thir-
3 ty days after the date of the posting and first publication of such
4 notice, which date and place shall be specified therein, a hearing will
5 be had upon such petition; that such petition will be available for
6 public inspection in the office of each town clerk until the date of
7 such hearing; that the purpose of the hearing is to consider the legal
8 sufficiency of the petition; that objections to the legal sufficiency of
9 the petition must be in writing and signed by one or more of the resi-
10 dents of such town; and that any group of persons having one or more
11 objections in common may make designation in writing and signed by them
12 of at least one but no more than three persons giving the full names and
13 addresses on whom and at which addresses all papers required to be
14 served in connection with the proceeding for incorporation shall be
15 served. A majority of such designees must reside in such town or towns.
16 In the absence of any other suitable place, such hearing shall be held
17 in a school building, if any, located in such territory. If such terri-
18 tory is located in more than one town the hearing shall be noticed and
19 publicized as a joint hearing of all such towns. For the purposes of
20 this section, in the event that the town maintains a website, one of the
21 posting requirements required by this section may be fulfilled by post-
22 ing such information on the town's website.

23 § 3. Paragraph g of subdivision 1 of section 2-206 of the village law
24 is amended to read as follows:

25 g. That such petition does not contain the required allegations as set
26 forth in subparagraphs seven and eight of paragraph b of subdivision one
27 of section 2-202 of this article, or if the allegations are included in
28 such petition, that such allegations are not supported by available
29 evidence; or

30 h. That the petition in any other specified respect does not conform
31 to the requirements of this article.

32 § 4. Section 2-208 of the village law is amended to read as follows:

33 § 2-208 Decision as to legal sufficiency of petition. 1. Within ten
34 days after such hearing is concluded the supervisor or supervisors
35 jointly shall determine whether the petition complies with the require-
36 ments of this article and jointly shall make and sign a decision accord-
37 ingly. If such supervisors cannot agree, the decision shall be deemed to
38 be adverse to the petition. If the decision be adverse to the petition,
39 the decision shall contain a brief statement of the reasons on which the
40 adverse decision is based or the reasons on which the supervisor or
41 supervisors deciding adversely to the petition were unable to join in a
42 unanimous decision sustaining the petition. Provided, however, if the
43 adverse decision is predicated on an 'overall interest' determination
44 pursuant to subparagraph seven of paragraph b of subdivision one of
45 section 2-202 of this article, the decision must contain a detailed
46 explanation that includes, but is not limited to, how such incorporation
47 would substantially impair such town's comprehensive or master plan,
48 established pursuant to section two hundred seventy-two-a of the town
49 law, or enacted zoning laws established by such town or towns located
50 within the territory.

51 2. The original of the decision, copies of the notice of the hearing
52 together with affidavits of posting and publishing same, the written
53 objections and the minutes of proceedings taken on the hearing including
54 signed testimony shall be filed by such supervisor or supervisors within
55 fifteen days after the hearing is concluded, with the town clerk of the
56 same town in which the original copy of the petition was filed. Dupli-

cate copies of the said papers shall be filed with the town clerks of all other towns in which any part of such territory is located.

3. If no proceeding be instituted to review such decision within thirty days after such filing of the original copy thereof, the decision shall be final and conclusive. In the event that the decision is adverse to the petition, a new proceeding for incorporation may be commenced immediately; provided, however, in the event an adverse decision is based on an 'overall interest' determination pursuant to subparagraph seven of paragraph b of subdivision one of section 2-202 of this article, the decision shall not be final and conclusive until ratified by residents qualified to vote for town offices of a town in which all or part of such territory of the proposed village is located consistent with subdivision two of section 2-212 of this article.

§ 5. Section 2-212 of the village law is amended by adding a new subdivision 2 to read as follows:

2. A determination pursuant to subparagraph seven of paragraph b of subdivision one of section 2-202 of this article shall be submitted to the residents qualified to vote for town offices of a town in which all or part of such territory of the proposed village is located at either the following town-wide election, or general election, whichever is sooner. In the event no town-wide or general election is scheduled to take place within one hundred twenty days from the date of the adverse decision, the town shall schedule an election to decide the incorporation of the proposed village within one hundred twenty days from the date of the adverse decision.

§ 6. Section 2-214 of the village law, as amended by section 26 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

§ 2-214 Notice of election. Within ten days after the right to an election is complete the town clerk of each town in which any portion of such territory is located shall cause to be posted in five public places in that part of such territory located in such town, and for elections held pursuant to subdivision two of section 2-212 of this article, also posted in at least five public places in the remaining territory of such town, including any other incorporated villages located in such town, and also to be published at least twice in the newspaper or newspapers designated pursuant to subdivision eleven of section sixty-four of the town law, a joint notice by the clerks of all such towns that at a convenient place in such territory, between the hours of [~~twelve o'clock noon~~] six o'clock in the morning and nine o'clock in the evening and on a day not less than twenty nor more than thirty days after the date of the posting and first publication, which date and place or places shall be specified therein, an election will be held to determine whether the proposed village of (naming it) shall be incorporated. There shall be at least one polling location for each ten thousand qualified voters. Such election shall not be held on a day of a town election or of a general election in a town in which any part of such territory is located, unless such election is held pursuant to subdivision two of section 2-212 of this article. For the purposes of this section, in the event that the town maintains a website, one of the posting requirements required by this section may be fulfilled by posting such information on the town's website.

§ 7. Section 2-216 of the village law is amended to read as follows:

§ 2-216 Qualification of voters. Each resident in such territory qualified to vote for town officers may vote at such election; provided, however, that for elections held pursuant to subdivision two of section 2-212 of this article, all residents qualified to vote for town offices

1 in a town in which all or part of such territory of the proposed village
2 is located may vote.

3 § 8. Subdivisions 1 and 3 of section 2-218 of the village law, subdivi-
4 sion 3 as amended by section 27 of part X of chapter 62 of the laws of
5 2003, are amended to read as follows:

6 1. Preparation. It shall be the duty of the clerk of each town in
7 which a portion of such [~~teritory~~] territory is located to make and file
8 in his or her office, at least ten days before such election an accurate
9 list of voters, alphabetically arranged, who are qualified to vote at
10 such election. Such list shall be copied from the registration poll
11 records for the last preceding general election, and shall be modified
12 in accordance with whatever information the town clerk may have or
13 receive from the board of elections.

14 3. Notice of availability of list for inspection and additions. Within
15 ten days after the right to an election is complete the town clerk of
16 each town in which any portion of such territory is located shall cause
17 to be posted in five public places in that part of such territory
18 located in such town, and for elections held pursuant to subdivision two
19 of section 2-212 of this article, also be posted in at least five public
20 places in the remaining territory of such town, including other incorpo-
21 rated villages also located in such town, and also to be published at
22 least twice in the newspaper or newspapers designated pursuant to subdivi-
23 sion eleven of section sixty-four of the town law, a notice: that a
24 registration list of voters qualified to vote at such election will be
25 available for inspection in his or her office between the hours of
26 twelve o'clock noon and nine o'clock in the evening on a day specified
27 therein which day shall not be on a Sunday and shall be at least three
28 days prior to such election; that at said time and place said list will
29 be available for inspection by the public; and also that at said time
30 and place persons claiming to be qualified to vote at such election
31 whose names are not on such list may, upon presentation of proper
32 proofs, have their names added thereto. For the purposes of this
33 section, in the event that the town maintains a website, one of the
34 posting requirements required by this subdivision may be fulfilled by
35 posting such information on the town's website.

36 § 9. Section 2-226 of the village law is amended to read as follows:

37 § 2-226 Notice of proceeding for review of election. A person insti-
38 tuting a proceeding under section 2-224 of this article shall serve a
39 copy of the verified petition on which same is to be heard on each town
40 clerk with whom the original or a copy of the certificate of election
41 was filed and also upon each person designated in the petition for
42 incorporation, or designated in written objections to said petition, to
43 receive service of papers in connection with the proceeding for incorpo-
44 ration. In addition the person instituting such proceedings shall cause
45 copies of such petition to be posted in five conspicuous places in such
46 territory, and for elections held pursuant to subdivision two of section
47 2-212 of this article, also be posted in at least five conspicuous
48 public places in the remaining territory of such town, including other
49 incorporated villages also located in such town.

50 § 10. This act shall take effect immediately and shall apply to all
51 petitions to form a new village for which a decision as to legal suffi-
52 ciency has not yet been made.