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

639

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. HOYT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the composition of county and part-county boards of health; and to amend the general municipal law, the town law and the village law, in relation to the petition requirements for initiating a referendum regarding municipal consolidation or dissolution

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

Section 1. Section 351 of the public health law, subdivision 1 as amended by chapter 83 of the laws of 1975, is amended to read as follows:

S 351. County or part-county health commissioner, PUBLIC HEALTH DIRECTOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board of health of each county and part-county health district OR OTHER BODY AUTHORIZED PURSUANT TO SECTION THREE HUNDRED FIFTY-SIX OF THIS TITLE or the county executive in those counties where the county charter provides that said commissioner is to be appointed by the county executive shall appoint a county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

(A) that the boards of health of not more than three county or part-county health districts OR OTHER BODIES AUTHORIZED PURSUANT TO SECTION THREE HUNDRED FIFTY-SIX OF THIS TITLE may appoint the same person to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR for said health districts, if the total population of health districts is not in excess of one hundred fifty thousand according to the latest federal decennial census, provided the approval of the commissioner is obtained[.]; OR

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

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[The] (B) THE board of health OR OTHER BODY AUTHORIZED PURSUANT TO SECTION THREE HUNDRED FIFTY-SIX OF THIS TITLE of any county health district with a population of less than thirty-five thousand [population] according to the latest federal decennial census may appoint the same person employed by a contiguous county or part-county health district to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR without regard to the total population of both health districts, provided the approval of the commissioner is obtained.

[2.] THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMINATION TO ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR, PUBLIC HEALTH DIRECTOR OR COUNTY HEALTH COMMISSIONER CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER APPROVAL AT HIS OR HER DISCRETION.

2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON TO SERVE AS THE COUNTY HEALTH DIRECTOR, COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT, NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

3. ANY BOARDS OF HEALTH OR OTHER BODIES AUTHORIZED PURSUANT TO SECTION THREE HUNDRED FIFTY-SIX OF THIS TITLE HAVING THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPECTIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH.

4. The COUNTY HEALTH DIRECTOR, county health commissioner OR PUBLIC HEALTH DIRECTOR shall possess such qualifications for office as are prescribed in the sanitary code.

[3.] 5. The COUNTY HEALTH DIRECTOR, county health commissioner OR PUBLIC HEALTH DIRECTOR shall serve for a term of six years and shall not be removed during the term for which he OR SHE shall have been appointed, except upon written charges after a hearing and upon notice.

[4.] 6. The COUNTY HEALTH DIRECTOR, county health commissioner OR PUBLIC HEALTH DIRECTOR shall receive such compensation as may be fixed by the board of supervisors OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT OF THE SAME PERSON AS THE COUNTY HEALTH DIRECTOR, COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF SUPERVISORS.

S 2. The general municipal law is amended by adding a new article 17-A to read as follows:

ARTICLE 17-A
MUNICIPAL CONSOLIDATION OR DISSOLUTION PETITIONS

SECTION 750. CITIZEN PETITIONS.

S 750. CITIZEN PETITIONS. 1. INTENT. IT IS THE INTENTION OF THE LEGISLATURE BY THE ENACTMENT OF THIS ARTICLE TO PROVIDE CITIZENS WITH A SIMPLIFIED PROCESS FOR PETITIONING THEIR LOCAL GOVERNMENT OFFICIALS TO RESTRUCTURE THEIR GOVERNMENTS WHILE MAINTAINING LOCAL CHOICE AND CONTROL OVER THE FINAL DECISION TO CONSOLIDATE OR DISSOLVE.

2. APPLICATION. THIS PETITION PROCESS SHALL APPLY TO ANY CONSOLIDATION OR DISSOLUTION OF A COUNTY, CITY, TOWN, VILLAGE OR DISTRICT AS AUTHORIZED BY LAW.

3. ELIGIBLE SIGNATURES. TO START THE CONSOLIDATION OR DISSOLUTION PROCESS, A PETITION MUST HAVE SIGNATURES FROM RESIDENTS OF THE JURISDIC-

TION TO BE CONSOLIDATED OR DISSOLVED WHO ARE QUALIFIED TO VOTE AT THE TIME OF THE FILING OF THE PETITION WITH THE MUNICIPAL CLERK, EQUAL TO AT LEAST TWENTY-FIVE PERCENT OF THE RESIDENT ELECTORS QUALIFIED TO VOTE IN THE LAST ELECTION.

4. TIME LIMIT. A SIGNATURE SHALL BE INVALID IF IT IS SIGNED UPON THE PETITION MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE PETITION IS FILED WITH THE MUNICIPAL CLERK, UNLESS THE GOVERNING BOARD PASSES A RESOLUTION TO GIVE ADDITIONAL TIME TO COLLECT SIGNATURES.

5. FORM. THE PETITION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

PETITION

WE, THE UNDERSIGNED, ELECTORS OF THE (INSERT TYPE OF MUNICIPALITY - COUNTY, CITY, TOWN, VILLAGE OR DISTRICT)_____ OF _____ (INSERT NAME OF MUNICIPALITY)_____, NEW YORK, QUALIFIED TO VOTE AT THE NEXT GENERAL OR SPECIAL ELECTION, DO HEREBY PETITION THAT THERE BE SUBMITTED TO THE VOTERS OF (INSERT NAME OF MUNICIPALITY)_____, PURSUANT TO LAW, A PROPOSITION AS FOLLOWS:

(INSERT PROPOSITION SOUGHT TO BE SUBMITTED)

THE UNDERSIGNED QUALIFIED ELECTORS HEREBY REQUEST THAT A REFERENDUM VOTE UPON THE ABOVE PROPOSITION BE TAKEN AS PROVIDED BY LAW.

IN WITNESS WHEREOF, WE HAVE SIGNED OUR NAMES ON THE DATES INDICATED NEXT TO OUR SIGNATURES.

	DATE	NAME - PRINT NAME UNDER SIGNATURE	HOME ADDRESS
1.	_____	_____	_____
		_____	_____
2.	_____	_____	_____
		_____	_____
3.	_____	_____	_____
		_____	_____

(ON THE BOTTOM OF EACH PAGE, AFTER ALL THE NUMBERED SIGNATURES, INSERT A WITNESS STATEMENT OR A STATEMENT BY A NOTARY PUBLIC OR COMMISSIONER OF DEEDS, IN SUBSTANTIALLY THE FOLLOWING FORM:)

I, (NAME OF WITNESS) , STATE THAT I AM A REGISTERED VOTER OF THE STATE OF NEW YORK. I AM A RESIDENT OF THE (COUNTY, CITY, TOWN, VILLAGE, OR DISTRICT) OF (NAME OF COUNTY, CITY, TOWN, VILLAGE, OR DISTRICT). EACH OF THE PERSONS THAT HAVE SIGNED THIS PETITION SHEET CONTAINING (FILL IN NUMBER) SIGNATURES, HAVE SIGNED THEIR NAME IN MY PRESENCE ON THE DATES INDICATED ABOVE AND IDENTIFIED THEMSELVES TO BE THE SAME PERSON WHO SIGNED THE SHEET. I UNDERSTAND THAT THIS STATEMENT WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT, AND IF IT CONTAINS A MATERIALLY FALSE STATEMENT, SHALL SUBJECT ME TO THE PENALTIES OF PERJURY.

_____ _____

DATE SIGNATURE OF WITNESS

(IN LIEU OF THE SIGNED STATEMENT OF A WITNESS WHO IS A DULY QUALIFIED VOTER OF THE STATE, QUALIFIED TO SIGN THE PETITION AS A RESIDENT OF THE COUNTY, CITY, TOWN, VILLAGE, OR DISTRICT, THE FOLLOWING STATEMENT SIGNED BY A NOTARY PUBLIC OR A COMMISSIONER OF DEEDS SHALL BE ACCEPTED.)

ON THE DATE ABOVE INDICATED BEFORE ME PERSONALLY CAME EACH OF THE VOTERS WHOSE SIGNATURES APPEAR ON THIS PETITION SHEET CONTAINING (FILL IN NUMBER) SIGNATURES, WHO SIGNED SAME IN MY PRESENCE AND WHO, BEING BY ME DULY SWORN, EACH FOR HIMSELF, SAID THAT THE FOREGOING STATEMENT MADE AND SUBSCRIBED BY HIM, WAS TRUE.

_____ _____

DATE NOTARY PUBLIC OR COMMISSIONER OF DEEDS

6. LIBERAL CONSTRUCTION. IN MATTERS OF FORM, THIS SECTION SHALL BE GIVEN A LIBERAL CONSTRUCTION, AND PRECISE COMPLIANCE IS NOT REQUIRED.

S 3. Subdivision 2 of section 9-912 of the village law, paragraph (e) as amended by chapter 230 of the laws of 1974, is amended to read as follows:

2. The questions which may or shall be submitted as propositions upon petition or motion of the board of trustees, as hereinbefore provided, are:

(a) Whether or not the area of the village should be diminished.

(b) Whether or not the village should be reincorporated.

(c) Whether or not the village should be consolidated with one or more villages; PROVIDED, HOWEVER, THAT A PETITION TO SUBMIT THIS QUESTION AS A PROPOSITION SHALL BE SUBMITTED IN A FORM IN ACCORDANCE WITH SUBDIVISIONS FIVE AND SIX OF SECTION SEVEN HUNDRED FIFTY OF THE GENERAL MUNICIPAL LAW.

(d) Whether or not the name of the village should be changed.

(e) Whether or not the month of the general village election should be changed.

S 4. Subdivision 3 of section 9-912 of the village law is amended to read as follows:

3. The board of trustees of any village may, and upon a petition of the electors of the village SUBMITTED IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THE GENERAL MUNICIPAL LAW shall, adopt a resolution submitting a proposition for the dissolution of the village in accordance with article nineteen of this chapter.

S 5. The village law is amended by adding a new section 18-1807 to read as follows:

S 18-1807 PROPOSITION FOR CONSOLIDATION. THE BOARD OF TRUSTEES OF TWO OR MORE ADJOINING VILLAGES MAY, AND UPON PETITION OF THE ELECTORS OF EACH VILLAGE SHALL, ADOPT A PLAN FOR CONSOLIDATION AND A RESOLUTION SUBMITTING A PROPOSITION FOR THE CONSOLIDATION OF THE VILLAGES IN ACCORDANCE WITH THE PERMISSIVE REFERENDUM ARTICLE.

S 6. Subdivision 1 of section 19-1900 of the village law, as amended by section 34 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

1. The board of trustees of any village may, and upon a petition of the electors of the village shall, adopt a plan for dissolution and a resolution submitting a proposition for the dissolution of the village in accordance with the permissive referendum article, except that in determining the date for submission of the proposition pursuant to section 9-912 of this chapter, the date of the public hearing under this article shall be used and not the date that the question is presented. [A petition to dissolve a village shall be sufficient if signed and acknowledged or proved by qualified electors of such village, in number equal to at least one-third of the total number of resident electors residing in the village, qualified to vote at the last general village or special village election immediately preceding the submission of the proposition in question, and who signed the petition not earlier than one hundred twenty days prior to filing thereof.]

S 7. Subdivision 1 of section 79-d of the town law, as added by chapter 690 of the laws of 1973, is amended to read as follows:

1. The town boards of the several towns in the same county may, AND UPON PETITION OF THE ELECTORS OF EACH TOWN IN THE MANNER PROVIDED BY ARTICLE SIX OF THIS CHAPTER SHALL, submit a proposition for consolidation at a general or special election.

S 8. Subdivision 4 of section 81 of the town law, as amended by chapter 434 of the laws of 1984, is amended to read as follows:

4. Such petition shall be subscribed and authenticated, in the manner provided by the election law for the authentication of nominating petitions, by electors of the town qualified to vote upon a proposition to raise and expend money, in number equal to at least five per centum of the total votes cast for governor in said town at the last general election held for the election of state officers, but such number shall not be less than one hundred in a town of the first class nor less than twenty-five in a town of the second class. IN THE CASE OF PETITION FOR TOWN CONSOLIDATION OR DISSOLUTION, SUCH PETITION SHALL BE SUBMITTED BY ELECTORS IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THE GENERAL MUNICIPAL LAW. If such a petition be filed in the office of the town clerk not less than sixty days, nor more than seventy-five days, prior to a biennial town election, the proposition shall be submitted at such biennial election. If a petition be presented at any other time, a special election shall be called to be held not less than sixty days, nor more than seventy-five days after the filing of such petition.

S 9. Section 172 of the town law, as amended by chapter 911 of the laws of 1971 and the first undesignated paragraph as amended by chapter 37 of the laws of 2000, is amended to read as follows:

S 172. Consolidation of fire districts. Irrespective of the manner of their original establishment, whenever two or more fire districts adjoin, the town board of the town in which such districts are located or, if said districts be situate in more than one town, the town boards thereof acting jointly by a majority vote of the members of each such town boards, upon a written petition of [resident taxpayers owning taxable real property aggregating at least one-half of the assessed valuation of all the taxable real property of each of the districts so adjoining owned by resident taxpayers thereof, as such valuations appear upon the latest completed assessment roll of said town or towns] RESIDENTS OF EACH FIRE DISTRICT WHO ARE QUALIFIED TO VOTE AT THE TIME THE PETITION IS FILED WITH THE MUNICIPAL CLERK, EQUAL TO AT LEAST TWENTY-FIVE PERCENT OF THE REGISTERED VOTERS RESIDING IN EACH DISTRICT AT THE TIME OF THE LAST GENERAL ELECTION, or upon the written petition of a majority of the members of the board of commissioners of each fire district proposed to be included within the consolidated district may consolidate such fire districts and establish the same into one fire district after a public hearing thereon. Such petition or petitions shall be [signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions] IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THE GENERAL MUNICIPAL LAW, EXCEPT THAT ON SUCH PETITION, THE NAME OF THE FIRE DISTRICT AND THE TOWN OR VILLAGE IN WHICH IT IS LOCATED SHALL APPEAR. Notice of such hearing shall be given and such hearing held and the subject matters thereof determined in the manner provided herein for hearings upon the establishment of fire districts, except that the notice of hearing shall state in general terms the purposes of the hearing and specify each of the existing districts proposed to be included within the consolidated district.

In the event that at the time of consolidation, any district included within the consolidated district shall have any indebtedness, either bonded or temporary, such district shall continue to exist in law for the purpose of paying such indebtedness, and there shall be annually assessed and levied upon and collected from the taxable real property within such original fire district, in the same manner and at the same time and by the same officers as town taxes are assessed, levied and collected, a sum sufficient to pay such indebtedness and interest there-

on as the same shall become due. All the real property within the consolidated district shall be liable for the payment of indebtedness incurred for the purposes of the district after such consolidation. For the purposes hereof, such consolidation shall be deemed effective upon the adoption by the town board or town boards of the resolution providing therefor, unless such resolution shall specify some other date for such purpose, in which case such consolidation shall become effective on the date so specified.

S 10. Section 172-b of the town law, as amended by chapter 907 of the laws of 1966 and the first undesignated paragraph as amended by chapter 37 of the laws of 2000, is amended to read as follows:

S 172-b. Consolidation of fire protection districts. Irrespective of the manner of their original establishment, whenever two or more fire protection districts adjoin, the town board of the town in which such districts are located or, if said districts be situate in more than one town, the town boards thereof acting jointly by a majority vote of the members of each such town boards, upon its or their own motion and without a petition or upon a written petition of [resident taxpayers owning taxable real property aggregating at least one-half of the assessed valuation of all the taxable real property of each of the districts so adjoining owned by resident taxpayers thereof, as such valuations appear upon the latest completed assessment-roll of said town or towns] RESIDENTS OF EACH FIRE DISTRICT WHO ARE QUALIFIED TO VOTE AT THE TIME THE PETITION IS FILED WITH THE MUNICIPAL CLERK, EQUAL TO AT LEAST TWENTY-FIVE PERCENT OF THE REGISTERED VOTERS RESIDING IN EACH DISTRICT AT THE TIME OF THE LAST GENERAL ELECTION, may consolidate such fire protection districts and establish the same into one fire protection district after a public hearing thereon. Such petition or petitions shall be [signed, and acknowledged or proved in the same manner as a deed to be recorded, or authenticated in the manner provided by the election law for the authentication of nominating petitions] IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THE GENERAL MUNICIPAL LAW, EXCEPT THAT ON SUCH PETITION, THE NAME OF THE FIRE PROTECTION DISTRICT AND THE TOWN OR VILLAGE IN WHICH IT IS LOCATED SHALL APPEAR. Notice of such hearing shall be given and such hearing held and the subject matters thereof determined in the manner provided herein for hearings upon the establishment of fire protection districts, except that the notice of hearing shall state in general terms the purposes of the hearing and specify each of the existing districts proposed to be included within the consolidated district. Any resolution of consolidation made upon motion of the town board or town boards without a petition shall be subject to a permissive referendum as provided in article seven of this chapter.

For the purposes hereof, such consolidation pursuant to petition of resident taxpayers shall be deemed effective upon the adoption by the town board or town boards of the resolution providing therefor, unless such resolution shall specify some other date for such purpose, in which case such consolidation shall become effective on the date so specified, and such consolidation upon motion of the town board or town boards without a petition shall become effective as provided in section ninety-one of this chapter. Unless renegotiated any existing contract for the supplying of fire protection to any fire protection district so consolidated shall be carried out in the same manner as if such consolidation had not taken place.

Where more than one fire protection district is situated in a town, the town board after a public hearing thereon of which notice shall be given as hereinbefore provided, may make a contract for fire protection

covering all or any of such districts in which event the cost of the contract shall be spread pro rata upon all the property in all of the districts affected by such contract.

S 11. This act shall take effect immediately.