

9155

2009-2010 Regular Sessions

I N   A S S E M B L Y

September 22, 2009

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Introduced by M. of A. BARRA -- read once and referred to the Committee  
on Local Governments

AN ACT to amend the general municipal law, the town law, the village law  
and the local finance law in relation to exempting villages and fire  
districts from the local consolidation or dissolution of local govern-  
ments and to repeal certain provisions of the general municipal law  
relating thereto

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

1     Section 1. Subdivisions 4 and 13 of section 750 of the general municipi-  
2     pal law, as added by chapter 74 of the laws of 2009, are amended to read  
3     as follows:  
4     4. "Contiguous" shall mean when a portion of a town [or village] abuts  
5     the boundary of another town [or village], including a town [or village]  
6     separated from the exact boundary of another town [or village] by a  
7     street, road, railroad, highway, river or other natural or artificial  
8     stream or body of water.  
9     13. "Local government entity" or "entity" shall mean a town,  
10    [village,] district, special improvement district or other improvement  
11    district, including, but not limited to, special districts created  
12    pursuant to articles eleven, twelve, twelve-A or thirteen of the town  
13    law, library districts, and other districts created by law; provided,  
14    however, that a local government entity shall not include VILLAGES,  
15    school districts, city districts, FIRE DISTRICTS, or special purpose  
16    districts created by counties under county law.  
17    S 2. Section 756 of the general municipal law, as added by chapter 74  
18    of the laws of 2009, is amended to read as follows:  
19    S 756. Effective date of joint consolidation agreement. Local govern-  
20    ment entities consolidated pursuant to a joint consolidation agreement  
21    shall continue to be governed as before consolidation until the effec-  
22    tive date of the consolidation specified in the joint consolidation

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

LBD14704-02-9

agreement; provided, however, that no joint consolidation agreement consolidating two or more towns, two or more villages or one or more towns and villages shall take effect unless approved by a majority of electors in each such town [and/or village] at a referendum called through a resolution enacted pursuant to section seven hundred fifty-five of this title.

S 3. Subdivisions 1 and 3 of section 757 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

1. The electors of two or more local government entities may commence a consolidation proceeding by filing an original petition, containing not less than the number of signatures provided for in subdivision two of this section and in the form provided for in subdivision three of this section, with the clerk of the town in which the entities or the greater portion of their territory are located[, except that if one or more of the entities to be consolidated is a village the original petition of electors from the village shall be filed with the clerk of the village]. Accompanying the filed petition shall be a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person.

3. The petition shall substantially comply with, and be circulated in, the following form:

#### PETITION FOR LOCAL GOVERNMENT CONSOLIDATION

We, the undersigned electors and legal voters of (insert type of local government entity - e.g., town[, village] or district) of (insert name of local government entity), New York, qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors and legal voters of (insert type and name of local government entities proposed to be consolidated), for their approval or rejection at a referendum held for that purpose, a proposal to consolidate (insert type and name of local government entity) with (insert type and name of local government entity or entities).

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 of the petition, after all of the numbered signatures, insert a signed statement of a witness who is a duly qualified elector of the state of New York. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he or she has been duly sworn. The form of such statement shall be substantially as follows:

I, (insert name of witness), state that I am a duly qualified voter of the state of New York. Each of the persons that have signed this petition sheet containing (insert number) signatures have signed their names 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 of New York, the following statement signed by a notary public or a commissioner of deeds shall be accepted:

On the date indicated above before me personally came each of the electors and legal voters whose signatures appear on this petition sheet containing (insert number) signatures, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the one and same person who signed the petition and that the foregoing information they provided was true.

Date

Notary Public or Commissioner of Deeds)

S 4. Subdivision 1 of section 758 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

1. A referendum required by sections seven hundred fifty-five or seven hundred fifty-seven of this title shall be placed before the electors of each of the local government entities to be consolidated at a special election to be held not less than sixty or more than ninety days after the enactment of a resolution calling for such referendum, provided, however, that in cases where a town [or village] general election falls within such period, the question may be considered during a town [or village] general election.

S 5. Paragraph (a) of subdivision 2 and subdivision 5 of section 763 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

(a) file an original petition, containing not less than the number of signatures provided for in subdivision three of this section, seeking a referendum on the question whether the elector initiated consolidation plan shall take effect, with the clerk of the town in which the entity or the greater portion of its territory is located[, except that if the entity is a village the original petition of electors from the village shall be filed with the clerk of the village]; and

5. The referendum on the question whether the elector initiated consolidation plan shall take effect shall be submitted at a special election to be held not less than sixty or more than ninety days after enactment of a resolution pursuant to subdivision four of this section, provided, however, that in cases where a town [or village] general election falls within such period, the referendum question may be considered during a town [or village] general election.

S 6. Subdivision 4 of section 775 of the general municipal law is REPEALED.

S 7. Section 777 of the general municipal law is REPEALED.

S 8. Section 778 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

S 778. Effective date of dissolution plan. A local government entity dissolved pursuant to a dissolution plan shall continue to be governed as before dissolution until the effective date of the dissolution specified in the dissolution plan[; provided, however, that no dissolution plan for a village shall take effect unless approved by a majority of electors of the village at a referendum called through a resolution enacted pursuant to section seven hundred seventy-seven of this title].

S 9. Subdivisions 1 and 3 of section 779 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

1. The electors of a local government entity may commence a dissolution proceeding by filing an original petition, containing not less than the number of signatures provided for in subdivision two of this

section and in the form provided for in subdivision three of this section, with the clerk of the town in which the entity or the greater portion of its territory is located[, except that if the entity is a village the original petition of electors from the village shall be filed with the clerk of the village]. Accompanying the filed petition shall be a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person.

3. The petition shall substantially comply with, and be circulated in, the following form:

#### PETITION FOR LOCAL GOVERNMENT DISSOLUTION

We, the undersigned, electors and legal voters of (insert type of local government entity -- e.g., town[, village] or district) of (insert name of local government entity), New York, qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors of (insert type and name of local government entity proposed to be dissolved), for their approval or rejection at a referendum held for that purpose, a proposal to dissolve and terminate (insert type and name of local government entity).

In witness whereof, we have signed our names on the dates indicated next to our signatures.

	Date	Name - print name under signature	Home Address
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1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

(On the bottom of each page of the petition, after all of the numbered signatures, insert a signed statement of a witness who is a duly qualified elector of the state of New York. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he or she has been duly sworn. The form of such statement shall be substantially as follows:

I, (insert name of witness), state that I am a duly qualified voter of the state of New York. Each of the persons that have signed this petition sheet containing (insert number) signatures, have signed their names 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)
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(In lieu of the signed statement of a witness who is a duly qualified voter of the state of New York, the following statement signed by a notary public or a commissioner of deeds shall be accepted:

On the date indicated above before me personally came each of the electors and legal voters whose signatures appear on this petition sheet containing (insert number) signatures, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the one and same person who signed the petition and that the foregoing information they provided was true.

	Date	Notary Public or Commissioner of Deeds)
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S 10. Subdivision 7 of section 779 of the general municipal law is REPEALED.

1 S 11. Subdivision 4 of section 783 of the general municipal law is  
2 REPEALED.

3 S 12. Paragraph (a) of subdivision 2 and subdivision 5 of section 785  
4 of the general municipal law, as added by chapter 74 of the laws of  
5 2009, are amended to read as follows:

6 (a) file an original petition, containing not less than the number of  
7 signatures provided for in subdivision three of this section, seeking a  
8 referendum on the question whether the elector initiated dissolution  
9 plan shall take effect, with the clerk of the town in which the entity  
10 or the greater portion of its territory is located[, except that if the  
11 entity is a village the original petition of electors from the village  
12 shall be filed with the clerk of the village]; and

13 5. The referendum on the question whether the elector initiated  
14 dissolution plan shall take effect shall be submitted at a special  
15 election to be held not less than sixty or more than ninety days after  
16 enactment of a resolution pursuant to subdivision four of this section,  
17 provided, however, that in cases where a town [or village] general  
18 election falls within such period, the referendum question may be  
19 considered during a town [or village] general election.

20 S 13. Section 789 of general municipal law is REPEALED.

21 S 14. Subdivisions 1 and 2 of section 174 of the town law, as amended  
22 by chapter 74 of the laws of 2009, are amended to read as follows:

23 1. (A) Whenever a fire district shall be established, within ten days  
24 thereafter the town board of the town in which such district is located  
25 or, in the case of a district including territory in two or more towns,  
26 the town boards of such towns acting jointly by a majority vote of the  
27 members of each of such town boards, shall appoint five fire district  
28 commissioners and a treasurer for such district who shall hold their  
29 respective offices until the thirty-first day of December next succeed-  
30 ing; provided, however, that if such district be established subsequent  
31 to the first day of October in any year, the officers so appointed by  
32 the town board shall hold office until the thirty-first day of December  
33 of the next succeeding calendar year. A person so appointed as fire  
34 district commissioner shall not serve as chief or assistant chief of the  
35 fire district fire department after taking his oath of office as such  
36 commissioner and during the time he serves as such commissioner pursuant  
37 to such appointment. The town clerk shall immediately notify the  
38 appointees of their appointment and of the time and place which he shall  
39 fix for the organization meeting of the board of fire commissioners,  
40 which meeting shall be held not later than ten days after the appoint-  
41 ment of said officers. At such organization meeting, the treasurer shall  
42 preside until such time as a chairman of the board of fire commissioners  
43 shall be chosen, but such treasurer shall not be entitled to a vote at  
44 such meeting. The board of fire commissioners shall appoint a secretary  
45 who shall hold office until the thirty-first day of December following  
46 the first election of fire district officers.

47 (B) WHENEVER TWO OR MORE FIRE DISTRICTS SHALL HAVE BEEN CONSOLIDATED,  
48 PURSUANT TO THIS ARTICLE, THE SEVERAL COMMISSIONERS OF EACH OF SUCH  
49 DISTRICTS SHALL CONSTITUTE THE BOARD OF FIRE COMMISSIONERS THEREOF AND  
50 THE SEVERAL TREASURERS OF SUCH DISTRICTS SHALL SERVE JOINTLY AS THE  
51 TREASURERS OF SUCH CONSOLIDATED DISTRICT, UNTIL THE THIRTY-FIRST DAY OF  
52 DECEMBER NEXT SUCCEEDING THE FIRST ELECTION OF FIRE DISTRICT COMMISSION-  
53 ERS AND A TREASURER FOR SUCH CONSOLIDATED DISTRICT, HELD PURSUANT TO  
54 SUBDIVISION TWO OF THIS SECTION. THE TERMS OF OFFICE OF SUCH FIRE  
55 DISTRICT OFFICERS OF THE SEVERAL DISTRICTS SO CONSOLIDATED SHALL TERMI-  
56 NATE ON SAID THIRTY-FIRST DAY OF DECEMBER NEXT SUCCEEDING SUCH ELECTION.

1     2. The first election of fire district officers shall be held on the  
2 second Tuesday in December next succeeding the establishment or consol-  
3 idation of such fire district; provided, however, that if such district  
4 be established OR CONSOLIDATED at a time subsequent to the first day of  
5 October in any year, the first election of fire district officers shall  
6 be held on the second Tuesday in the month of December of the next  
7 succeeding calendar year. At the first annual election of fire district  
8 officers, five district commissioners shall be elected and a treasurer.  
9 The person receiving the greatest number of votes for the office of fire  
10 commissioner shall be elected for a term of five years; the person  
11 receiving the second highest number of votes shall be elected for a term  
12 of four years; the person receiving the third highest number of votes  
13 shall be elected for a term of three years; the person receiving the  
14 fourth highest number of votes shall be elected for a term of two years  
15 and the person receiving the fifth highest number of votes shall be  
16 elected for a term of one year. In the event that two persons shall  
17 receive the same number of votes the terms of office shall be decided by  
18 lot. At each subsequent election of fire district officers a commission-  
19 er shall be elected for the full term of five years. In the event that  
20 two or more persons receive the same number of votes thereat, a special  
21 election between the tying parties receiving the highest number of votes  
22 to fill the vacancy shall be held within forty-five days after such  
23 election. The fire district treasurer shall be elected for a term of  
24 three years. The fire district secretary shall be appointed by the fire  
25 district commissioners and shall serve for a period of one year. The  
26 fire district secretary in office at the time such election is held  
27 shall immediately notify the officers elected of their election and that  
28 an organization meeting will be held on the day specified in said  
29 notice, which shall not be later than the fifteenth day of January next  
30 ensuing. At such organization meeting, the treasurer shall preside until  
31 such time as a chairman of the board of fire commissioners shall be  
32 chosen, but such treasurer shall not be entitled to a vote at such meet-  
33 ing.

34     S 15. Subdivision 1 of section 176 of the town law, as amended by  
35 chapter 74 of the laws of 2009, is amended to read as follows:

36     1. Shall elect one of their members as chairman at the first meeting  
37 of fire commissioners after such district shall have been established OR  
38 CONSOLIDATED and annually thereafter at the first meeting thereof  
39 following each election of fire district officers. Such chairman, when  
40 present, shall preside at the meetings of the board of fire commission-  
41 ers. In the absence of the chairman the other members may designate one  
42 of their members to act as temporary chairman.

43     S 16. Section 189-e of the town law, as amended by chapter 74 of the  
44 laws of 2009, is amended to read as follows:

45     S 189-e. Management of affairs of joint fire districts. Subject to the  
46 restrictions hereinafter established, the property and affairs of joint  
47 fire districts shall be under the management and control and in charge  
48 of a board of not less than three and not more than seven commissioners,  
49 appointed by the town board of the town or the town boards of the towns  
50 and the board of trustees of the village or the boards of trustees of  
51 the villages in joint session as hereinafter provided, or elected as  
52 provided in article eleven of this chapter, as may be determined by  
53 resolution adopted at the meeting for the establishment of the district  
54 in the same manner as the resolution for the establishment of the  
55 district is adopted[; or as may be determined by a joint consolidation  
56 agreement or elector initiated consolidation plan in accordance with

1 article seventeen-A of the general municipal law]. In case it is deter-  
2 mined that the commissioners shall be selected in the manner provided by  
3 article eleven of this chapter, the appointments as provided for in  
4 subdivision one of section one hundred seventy-four of this chapter  
5 shall be made by the town board, or, if the district includes territory  
6 in more than one town, by the town board of all of the towns at a joint  
7 session held at one location within the district and thereafter  
8 elections shall be held as provided in article eleven of this chapter  
9 except that the terms of the commissioners shall be as hereinafter  
10 provided. They shall be residents of such district and in case selection  
11 is made as provided in article eleven of this chapter there shall be no  
12 other residential requirement, but otherwise if there are an even number  
13 of commissioners not more than half at any time shall be residents of  
14 such village or villages and if there are an odd number, the number that  
15 are residents of such village or villages shall not exceed the number  
16 that are residents of such town or towns by more than one. First  
17 appointments hereunder shall be made in the following manner: If there  
18 be three commissioners, the term of one shall expire one year, of anothe-  
19 er two years and of the other three years from the then next ensuing  
20 thirty-first day of December, and thereafter one shall be appointed  
21 annually for a term of three years from the date of the expiration of  
22 the term of his predecessor. If there be four commissioners, the term of  
23 one shall expire one year, of another two years, of another three years,  
24 and of the other four years from the then next ensuing thirty-first day  
25 of December, and thereafter one shall be appointed annually for a term  
26 of four years from the date of the expiration of the term of his prede-  
27 cessor. If there be five commissioners, the term of one shall expire one  
28 year, of another two years, of another three years, of another four  
29 years, and of the other five years from the then next ensuing thirty-  
30 first day of December, and thereafter one shall be appointed annually  
31 for a term of five years from the date of the expiration of a term of  
32 his predecessor. If there be six commissioners, the term of one shall  
33 expire one year, of another two years, of another three years, of anothe-  
34 er four years, and of the remaining two, five years from the then next  
35 ensuing thirty-first day of December, and thereafter appointments shall  
36 be made for a term of five years from the date of the expiration of the  
37 term of each commissioner. If there be seven commissioners, the term of  
38 one shall expire one year, of another two years, of another three years,  
39 and of two of the others four years, and of the remaining two, five  
40 years from the then next ensuing thirty-first day of December, and ther-  
41 eafter appointments shall be made for a term of five years from the date  
42 of the expiration of the term of each commissioner. Such board of  
43 commissioners may employ necessary labor and assistants, at a compen-  
44 sation approved by such boards in joint session. Such commissioners  
45 shall receive no compensation for their services, but they and their  
46 employees shall be allowed and paid their necessary expenses, payable as  
47 expenses of the district.

48 S 17. Subdivision 2-a of section 2-254 of the village law, as amended  
49 by chapter 74 of the laws of 2009, is amended to read as follows:

50 2-a. If the limits of a village incorporated prior to the first day of  
51 April, nineteen hundred sixty-five are coterminous with the limits of,  
52 or wholly include the territory of, a district, the board of trustees of  
53 the village, by local law [or pursuant to the provisions of article  
54 seventeen-A of the general municipal law], may abolish any such  
55 district. In addition to any other notice required in connection with  
56 the adoption of such local law generally, thirty days' written notice of

1 the hearing to be held in connection with such local law shall be given  
2 to the governing body of any such district and to the town clerk. A  
3 certified copy of any such local law shall be served upon or mailed to  
4 such governing body and clerk within five days following the adoption  
5 thereof. Except as otherwise provided in this section, the powers and  
6 duties of the governing body of a district so abolished and of all the  
7 officers of the district in connection therewith shall cease and deter-  
8 mine upon the effective date of such local law and any board of commis-  
9 sioners, any office of commissioner and any other office of any such  
10 district shall also cease to exist at such time. No such local law shall  
11 become effective except on the last day of a fiscal year of the town or  
12 district, as the case may be.

13 S 18. Paragraph 21-a of section 2.00 of the local finance law, as  
14 amended by chapter 74 of the laws of 2009, is amended to read as  
15 follows:

16 21-a. The term "full valuation", when used in relation to real proper-  
17 ty subject to taxation by a fire district, shall mean the valuation  
18 which is derived by dividing the assessed valuation of the real property  
19 concerned, as shown by the last completed assessment roll for the fire  
20 district, by the town equalization rate established by the authorized  
21 state officer or agency for such roll. Where, in the case of a newly-  
22 created fire district, there is no completed assessment roll for such  
23 fire district, full valuation shall be determined from the last  
24 completed assessment roll upon which the real property included within  
25 the district was assessed for town purposes prior to such creation.  
26 Where, after the boundaries of a fire district shall have been changed  
27 so that real property subject to taxation for fire district purposes  
28 shall have been thereby added to or subtracted from the area of the fire  
29 district, there is no completed assessment roll for the fire district as  
30 so changed, full valuation shall be determined from the last completed  
31 assessment roll upon which the real property included in the fire  
32 district after such change was assessed prior to such change for town or  
33 fire district purposes, as the case may be. For the purpose of contract-  
34 ing indebtedness or for the purpose of preparing debt statements, the  
35 assessment rolls referred to in this [subdivision] PARAGRAPH shall mean  
36 such assessment rolls as completed, verified and filed by the assessors.  
37 Where two or more fire districts consolidate to form one fire district  
38 PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THE TOWN LAW, the consol-  
39 idated fire district, for the purpose of this [subdivision] PARAGRAPH,  
40 shall not be deemed a newly-created fire district, but shall be deemed  
41 an existing fire district and its full valuation shall be determined  
42 accordingly.

43 S 19. Notwithstanding the provisions of article 5 of the general  
44 construction law, the provisions of sections 172, 172-b, 172-d, 185, and  
45 189-c of the town law and sections 18-1806, 18-1808, 18-1810, 18-1812,  
46 18-1814, 18-1816 and 18-1818 and article 19 of the village law shall be  
47 revived and be read as such provisions existed in law on the date imme-  
48 diately preceding the effective date of chapter 74 of the laws of 2009.

49 S 20. This act shall take effect on the same date and in the same  
50 manner as chapter 74 of the laws of 2009, as amended, takes effect.