

9155

2009-2010 Regular Sessions

I N A S S E M B L Y

September 22, 2009

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.

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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.