

9412

I N A S S E M B L Y

(PREFILED)

January 6, 2010

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

AN ACT to amend the general municipal law and the town law, in relation to establishing a petition process to change the elective offices of clerk, superintendent of highways and receiver of taxes

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

1 Section 1. The general municipal law is amended by adding a new arti-
2 cle 17-B to read as follows:

3 ARTICLE 17-B

4 PETITION PROCESS TO ELIMINATE CERTAIN
5 POSITIONS

6 SECTION 799-A. DEFINITIONS.

7 799-B. PROCESS UPON PETITION OR RESOLUTION.

8 799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE
9 OFFICES OF CLERK, SUPERINTENDENT OF HIGHWAYS AND
10 RECEIVER OF TAXES.

11 S 799-A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

12 1. THE TERM "QUALIFIED ELECTOR" SHALL MEAN A PERSON WHO IS REGISTERED
13 TO VOTE IN ACCORDANCE WITH THE PROVISIONS OF THE ELECTION LAW.

14 2. THE TERM "PARTICIPATING MUNICIPALITY" SHALL MEAN A TOWN OR VILLAGE
15 THAT HAS STARTED THE PETITION PROCESS PURSUANT TO SECTION SEVEN HUNDRED
16 NINETY-NINE-B OF THIS ARTICLE.

17 S 799-B. PROCESS UPON PETITION OR RESOLUTION. 1. THE PROCESS SHALL
18 START IN A MUNICIPALITY ONCE A PETITION FROM THE RESIDENTS IS FILED WITH
19 THE MUNICIPAL CLERK.

20 2. UPON RECEIVING A PETITION FROM THE RESIDENTS, THE PARTICIPATING
21 MUNICIPALITY SHALL SUBMIT THE QUESTION OF THE CHANGE OF OFFICE OF THE
22 CLERK, SUPERINTENDENT OF HIGHWAYS OR RECEIVER OF TAXES TO THE VOTERS.

23 3. A CERTIFICATE OF THE ELECTION SHALL BE FILED WITH THE SECRETARY OF
24 STATE, WITH THE CLERKS OF EACH PARTICIPATING MUNICIPALITY, AND WITH THE
25 CLERKS OF EACH COUNTY IN WHICH ANY PART OF THE PARTICIPATING MUNICI-
26 PALITY IS LOCATED.

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

LBD11027-04-0

1 4. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPAT-
2 ING MUNICIPALITY, ARE IN THE AFFIRMATIVE, THE MUNICIPALITY WITHIN THIRTY
3 DAYS OF THE DATE OF THE REFERENDUM SHALL NOTIFY SUCH CLERK, SUPERINTEN-
4 DENT OF HIGHWAYS OR RECEIVER OF TAXES THAT HE OR SHE SHALL SERVE OUT
5 THEIR REMAINING TERM.

6 5. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPAT-
7 ING MUNICIPALITY ARE IN THE NEGATIVE, THE REFERENDUM SHALL FAIL AND THE
8 PETITION PROCESS MAY NOT BE INITIATED FOR THE SAME PURPOSE WITHIN TWO
9 YEARS OF THE DATE OF SUCH REFERENDUM.

10 S 799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE OFFICES
11 OF CLERK, SUPERINTENDENT OF HIGHWAYS AND RECEIVER OF TAXES. 1. ELIGIBLE
12 SIGNATURES. TO START THE PETITION PROCESS, A PETITION MUST HAVE SIGNA-
13 TURES FROM RESIDENTS OF THE JURISDICTION, EQUAL TO AT LEAST TEN PERCENT
14 OF THE RESIDENT ELECTORS QUALIFIED TO VOTE IN THE LAST GENERAL ELECTION.
15 THOSE SIGNING THE PETITION MUST BE QUALIFIED TO VOTE AT THE TIME OF THE
16 FILING OF THE PETITION WITH THE MUNICIPAL CLERK.

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

21 3. FORM. THE PETITION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:
22 PETITION

23 WE, THE UNDERSIGNED, ELECTORS OF THE (INSERT TYPE OF MUNICIPALITY - TOWN
24 OR VILLAGE) OF (INSERT NAME OF MUNICIPALITY)
25 , NEW YORK, QUALIFIED TO VOTE AT THE NEXT GENERAL OR SPECIAL ELECTION,
26 DO HEREBY PETITION THAT THERE BE SUBMITTED TO THE VOTERS OF (INSERT NAME
27 OF MUNICIPALITY) , PURSUANT TO LAW, A PROPOSITION AS FOLLOWS:
28 (INSERT PROPOSITION SOUGHT TO BE SUBMITTED) THE UNDERSIGNED QUALIFIED
29 ELECTORS HEREBY REQUEST THAT A REFERENDUM VOTE UPON THE ABOVE PROPOSI-
30 TION BE TAKEN AS PROVIDED BY LAW. IN WITNESS WHEREOF, WE HAVE SIGNED
31 OUR NAMES ON THE DATES INDICATED NEXT TO OUR SIGNATURES.

32 DATE NAME - PRINT NAME UNDER SIGNATURE HOME ADDRESS
33 1. _____
34 2. _____
35 3. _____

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

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

48 _____
49 DATE SIGNATURE OF WITNESS

50 (IN LIEU OF THE SIGNED STATEMENT OF A WITNESS WHO IS A DULY QUALIFIED
51 VOTER OF THE STATE, QUALIFIED TO SIGN THE PETITION AS A RESIDENT OF THE
52 TOWN OR VILLAGE, THE FOLLOWING STATEMENT SIGNED BY A NOTARY PUBLIC OR A
53 COMMISSIONER OF DEEDS SHALL BE ACCEPTED.) ON THE DATE ABOVE INDICATED
54 BEFORE ME PERSONALLY CAME EACH OF THE VOTERS WHOSE SIGNATURES APPEAR ON
55 THIS PETITION SHEET CONTAINING (FILL IN NUMBER) SIGNATURES, WHO SIGNED
56 SAME IN MY PRESENCE AND WHO, BEING BY ME DULY SWORN, EACH FOR HIMSELF OR

1 HERSELF, SAID THAT THE FOREGOING STATEMENT MADE AND SUBSCRIBED BY HIM OR
2 HER, WAS TRUE.

3
4 DATE NOTARY PUBLIC OR COMMISSIONER OF DEEDS

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

7 S 2. Subdivision 6 of section 20 of the town law, as added by chapter
8 792 of the laws of 1934, paragraph (c) as added by chapter 343 of the
9 laws of 1940, paragraphs (a), (b) and (c) as relettered by chapter 302
10 of the laws of 1974, is amended to read as follows:

11 6. (a) (I) At least one hundred fifty days prior to any biennial town
12 election, the town board of any town in which the appointive office of
13 town clerk shall exist, may adopt a resolution, subject to a permissive
14 referendum, that the office of town clerk shall be an elective office in
15 such town. Every elector of the town shall be entitled to vote at any
16 referendum held thereon pursuant to the provisions of article seven of
17 this chapter. If the town board shall have adopted such a resolution and
18 no petition shall have been filed within the time specified in article
19 seven OF THIS CHAPTER for a referendum thereon, or, if a majority of the
20 votes cast on any such proposition submitted pursuant to the provisions
21 of article seven OF THIS CHAPTER be in the affirmative the office of
22 town clerk shall thereafter be an elective office in such town, and a
23 town clerk shall be elected at the succeeding biennial town election for
24 the term provided by this chapter, beginning on the first day of January
25 next succeeding such biennial town election and the term of office of
26 the appointive town clerk for whom such successor shall be elected shall
27 expire on said first day of January.

28 (II) EVERY ELECTOR OF THE TOWN SHALL BE ENTITLED TO VOTE AT ANY REFER-
29 ENDUM HELD THEREON PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN OF THIS
30 CHAPTER. IF THE TOWN BOARD SHALL HAVE ADOPTED SUCH A RESOLUTION AND NO
31 PETITION SHALL HAVE BEEN FILED WITHIN THE TIME SPECIFIED IN ARTICLE
32 SEVEN OF THIS CHAPTER FOR A REFERENDUM THEREON, OR, IF A MAJORITY OF THE
33 VOTES CAST ON ANY SUCH PROPOSITION SUBMITTED PURSUANT TO THE PROVISIONS
34 OF ARTICLE SEVEN OF THIS CHAPTER BE IN THE AFFIRMATIVE, THE OFFICE OF
35 TOWN CLERK SHALL THEREAFTER BE AN APPOINTIVE OFFICE IN SUCH TOWN, AND
36 THE TOWN BOARD SHALL APPOINT A TOWN CLERK FOR THE TERM PROVIDED BY THIS
37 CHAPTER, BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING SUCH
38 BIENNIAL TOWN ELECTION AND THE TERM OF OFFICE OF THE ELECTIVE TOWN CLERK
39 FOR WHOM SUCH SUCCESSOR SHALL BE APPOINTED SHALL EXPIRE ON SAID FIRST
40 DAY OF JANUARY.

41 (b) (I) At least one hundred fifty days prior to any biennial town
42 election the town board of any town in which the appointive office of
43 town superintendent of highways shall exist, may adopt a resolution,
44 subject to a permissive referendum that the office of town superinten-
45 dent of highways shall be an elective office in such town. Every elector
46 of the town shall be entitled to vote at any referendum held thereon
47 pursuant to the provisions of article seven of this chapter. If the town
48 board shall have adopted such a resolution and no petition shall have
49 been filed within the time specified in article seven OF THIS CHAPTER
50 for a referendum thereon, or, if a majority of the votes cast on any
51 such proposition submitted pursuant to the provisions of article seven
52 OF THIS CHAPTER be in the affirmative the office of town superintendent
53 of highways shall thereafter be an elective office in such town, and a
54 town superintendent of highways shall be elected at the succeeding bien-
55 nial town election for the term provided by this chapter, beginning on
56 the first day of January next succeeding such biennial town election and

1 the term of office of the appointive town superintendent of highways for
2 whom such successor shall be elected shall expire on said first day of
3 January.

4 (II) EVERY ELECTOR OF THE TOWN SHALL BE ENTITLED TO VOTE AT ANY REFER-
5 ENDUM HELD THEREON PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN OF THIS
6 CHAPTER. IF THE TOWN BOARD SHALL HAVE ADOPTED SUCH A RESOLUTION AND NO
7 PETITION SHALL HAVE BEEN FILED WITHIN THE TIME SPECIFIED IN ARTICLE
8 SEVEN OF THIS CHAPTER FOR A REFERENDUM THEREON, OR, IF A MAJORITY OF THE
9 VOTES CAST ON ANY SUCH PROPOSITION SUBMITTED PURSUANT TO THE PROVISIONS
10 OF ARTICLE SEVEN OF THIS CHAPTER BE IN THE AFFIRMATIVE, THE OFFICE OF
11 TOWN SUPERINTENDENT OF HIGHWAYS SHALL THEREAFTER BE AN APPOINTIVE OFFICE
12 IN SUCH TOWN, AND THE TOWN BOARD SHALL APPOINT A TOWN SUPERINTENDENT OF
13 HIGHWAYS FOR THE TERM PROVIDED BY THIS CHAPTER, BEGINNING ON THE FIRST
14 DAY OF JANUARY NEXT SUCCEEDING SUCH BIENNIAL TOWN ELECTION AND THE TERM
15 OF OFFICE OF THE ELECTIVE TOWN SUPERINTENDENT OF HIGHWAYS FOR WHOM SUCH
16 SUCCESSOR SHALL BE APPOINTED SHALL EXPIRE ON SAID FIRST DAY OF JANUARY.

17 (c) (I) At least one hundred fifty days prior to any biennial town
18 election, the town board of any town of the first class in which the
19 appointive office of receiver of taxes and assessments shall exist, may
20 adopt a resolution, subject to a permissive referendum, that the office
21 of receiver of taxes and assessments shall be an elective office in such
22 town. Every elector of the town shall be entitled to vote at any refer-
23 endum held thereon pursuant to the provisions of article seven of this
24 chapter. If the town board shall have adopted such a resolution and no
25 petition shall have been filed within the time specified in article
26 seven OF THIS CHAPTER for a referendum thereon, or, if a majority of the
27 votes cast on any such proposition submitted pursuant to the provisions
28 of article seven OF THIS CHAPTER be in the affirmative the office of
29 receiver of taxes and assessments shall thereafter be an elective office
30 in such town, and a receiver of taxes and assessments shall be elected
31 at the succeeding biennial town election for the term provided by this
32 chapter, beginning on the first day of January next succeeding such
33 biennial town election and the term of office of the appointive receiver
34 of taxes and assessments for whom such successor shall be elected shall
35 expire on said first day of January.

36 (II) NO PETITION SHALL HAVE BEEN FILED WITHIN THE TIME SPECIFIED IN
37 ARTICLE SEVEN OF THIS CHAPTER FOR A REFERENDUM THEREON, OR, IF A MAJORI-
38 TY OF THE VOTES CAST ON ANY SUCH PROPOSITION SUBMITTED PURSUANT TO THE
39 PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER BE IN THE AFFIRMATIVE THE
40 OFFICE OF RECEIVER OF TAXES AND ASSESSMENTS SHALL THEREAFTER BE AN
41 APPOINTIVE OFFICE IN SUCH TOWN, AND THE TOWN BOARD SHALL APPOINT A
42 RECEIVER OF TAXES AND ASSESSMENTS FOR THE TERM PROVIDED BY THIS CHAPTER,
43 BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING SUCH BIENNIAL TOWN
44 ELECTION AND THE TERM OF OFFICE OF THE ELECTIVE RECEIVER OF TAXES AND
45 ASSESSMENTS FOR WHOM SUCH SUCCESSOR SHALL BE APPOINTED SHALL EXPIRE ON
46 SAID FIRST DAY OF JANUARY.

47 S 3. Subdivision 1 of section 36 of the town law, as amended by chap-
48 ter 437 of the laws of 1963, is amended to read as follows:

49 1. In any town [of the second class] in which the office of tax
50 collector or receiver of taxes AND ASSESSMENTS exists, the town board
51 thereof may by resolution duly adopted at least one hundred fifty days
52 prior to any biennial town election, determine that said office be abol-
53 ished, same to take effect at the expiration of the term of office to
54 which the incumbent was elected or appointed; and no such tax collector
55 or town receiver of taxes AND ASSESSMENTS shall be elected at any bien-
56 nial town election held not less than one hundred fifty days thereafter.

1 Upon the expiration of the term of office of such tax collector or town
2 receiver of taxes AND ASSESSMENTS as provided [herein] IN THIS CHAPTER,
3 he OR SHE shall surrender and deliver to the town clerk of said town all
4 assessment rolls, books, papers, writings and all other documents and
5 property in his OR HER possession as such officer. In all towns where
6 the office of tax collector or receiver of taxes AND ASSESSMENTS has
7 been abolished, it shall be the duty of such town clerk to collect and
8 receive all state, county and town taxes and assessments that may be
9 levied in such town and the town clerk shall have all the powers and be
10 subject to all the duties of a collector IN A TOWN OF THE SECOND CLASS,
11 OR OF A RECEIVER OF TAXES AND ASSESSMENTS IN A TOWN OF THE FIRST CLASS
12 with respect to the collection of such taxes, the deposit of receipts
13 and the return of unpaid taxes, as provided by subdivision one of
14 section thirty-five OR SECTION THIRTY-SEVEN of this [chapter] ARTICLE,
15 AS THE CASE MAY BE.

16 S 4. Paragraph 5 of subdivision 21-a of section 64 of the town law is
17 renumbered paragraph 6 and a new paragraph 5 is added to read as
18 follows:

19 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW
20 TO THE CONTRARY, EVERY TOWN WHICH HAS ESTABLISHED A DEPARTMENT OF PUBLIC
21 WORKS PURSUANT TO THIS SECTION MAY ADOPT A RESOLUTION, SUBJECT TO
22 PERMISSIVE REFERENDUM AS PROVIDED BY ARTICLE SEVEN OF THIS CHAPTER, THAT
23 THE OFFICE OF THE TOWN SUPERINTENDENT OF HIGHWAYS SHALL BE ABOLISHED.
24 THE COMMISSIONER OF PUBLIC WORKS SHALL THEREAFTER BE THE HEAD OF THE
25 DEPARTMENT OF PUBLIC WORKS AND THE HIGHWAY DEPARTMENT, AND HE OR SHE
26 SHALL HAVE ALL THE POWERS AND DUTIES CONFERRED UPON THE SUPERINTENDENT
27 OF HIGHWAYS WITHIN THIS CHAPTER, THE HIGHWAY LAW, AND ANY OTHER GENERAL,
28 SPECIAL, OR LOCAL LAW, RULE, REGULATION OR CODE.

29 S 5. This act shall take effect immediately.