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

1180

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SEMINERIO -- read once and referred to the Committee on Judiciary

AN ACT to provide for a referendum of the people of the borough of Queens on the question "Shall a charter commission to provide for the separation of the borough of Queens from the city of New York and for the establishment of the city of Queens be created?"

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

Section 1. There shall be submitted by the board of elections of the city of New York to the voters of the borough of Queens at the general election next occurring after the effective date of this act the following question: "Shall a charter commission to provide for the separation of the borough of Queens from the city of New York and for the establishment of the city of Queens be created?"

S 2. Such question shall be submitted in the manner provided in the election law, and the provisions of such law, not inconsistent with this act, relating to the submission of and to the taking, counting and returning the vote and canvassing the results upon a question submitted pursuant to law to the voters of the state shall apply to the question herein required to be submitted. The ballots shall be in such form as prescribed by such law. When the city of New York board of elections shall have completed its canvass of the results of the vote upon such question, it shall forthwith certify the results of the vote upon such question to the secretary of the senate and the clerk of the assembly.

S 3. The following expenses, to be paid or incurred by the city of New York in carrying out the provisions of this act are hereby made a charge against the state, for which it shall be reimbursed by the state: expense of providing ballots and sample ballots, containing such question, including such ballots for voting machines, and of providing copies of such question for distribution by boards of elections and

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

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election officers and blanks for tallying and making returns of votes cast and returns of the county canvass; extra expense, if there be any, of including in the published notice of election under the election law the reference to the question submitted; the expense of providing any and all blanks, stationery, postage, articles and supplies which would not have been required if such question had not been submitted and expenses and allowances provided to members of the charter commission for the city of Queens pursuant to section four of this act. The amount of such expenses shall be paid from the state treasury to the city of New York from moneys available therefor by appropriation, after audit by the comptroller of vouchers therefor, and upon his or her warrant. If the city of New York board of elections shall have necessarily paid or incurred any expense under the election law in providing ballot boxes, voting machines or supplies which would not have been required for such election had such question not been submitted, the proper authorities shall file a sworn detailed statement thereof with the state comptroller with its own statement of expenses, and the amount thereof, after audit by the comptroller, shall be included in the amount paid from the state treasury to such board, which shall pay the same over to the city of New York.

S 4. In the event the greatest number of votes cast in said election are in the affirmative, a charter commission for the city of Queens shall be created for the purpose of drafting a charter for such city which charter shall be submitted to such voters of such borough for approval.

(a) Such commission shall consist of members of the state legislature representing any part of Queens county and additional members to be appointed as follows: one each by the governor, the temporary president of the senate and the speaker of the assembly. Further, each member of the state legislature representing any part of Queens county shall appoint one member. All appointed members of the commission shall be residents of the borough of Queens. The chair of the commission shall be elected by a majority vote of the members of the commission. Any vacancy in the commission shall be filled in the same manner in which the original appointment was made. A majority of those members appointed and serving shall constitute a quorum for the transaction of any commission business and a majority of those present may approve any measure before it.

(b) The study of any subject relevant to the property, affairs or government, structure or organization of the new city of Queens, or of any laws, local law or ordinances, resolutions, charters and codes relating thereto, or of any matter or thing considered by the commission to be pertinent thereto, shall be deemed to be within the scope of the commission's powers hereunder.

(c) Within thirty months, but not before twenty-four months following the date of the referendum on creating the commission, the commission shall submit its proposed charter for the city of Queens to the following: the governor, the temporary president of the senate, the speaker of the assembly and the president of the borough of Queens. The commission shall file its proposed charter with the clerk of the county of Queens and the clerk of the city of New York and shall hold public hearings on such charter throughout the borough for at least six months after its submission. At the conclusion of such hearings, the commission may, by resolution, provide for the submission of such charter to the voters of such borough at the next succeeding general election or, if the commission considers it desirable to submit such charter at a

special election, the commission may recommend such special election to the governor who may, in his or her discretion, make proclamation of a special election, which proclamation shall be at least forty-five days but not more than sixty days prior to the date of such special election.

(d) At such election, there shall be submitted to the voters of such borough the question: "Shall the charter for the city of Queens proposed by the charter commission for the city of Queens be adopted?" There shall also be submitted to such voters at such election the following question: "Provided that the greatest number of votes cast in said election by voters of the borough of Queens are cast in the negative, shall such charter commission continue in existence for the purpose of drafting an alternative proposed charter for the city of Queens?"

(e) 1. If the charter for the city of Queens submitted by such charter commission receives the affirmative vote of a majority of the votes cast in such election, such charter shall be adopted. Within three months of adoption of the charter by the voters of Queens, the commission shall submit to the governor, the temporary president of the senate and the speaker of the assembly proposed legislation enabling the borough of Queens to disengage and separate from the city of New York. If the charter for the city of Queens submitted by such charter commission receives the negative vote of a majority of the votes cast in such election, with the second question receiving the negative vote of a majority of the votes cast in such election, the charter commission shall be dissolved.

2. If the charter for the city of Queens submitted by such charter commission receives the negative vote of a majority of the votes cast in such election, with the second question receiving the affirmative vote of a majority of the votes cast in such election, the charter commission shall remain in existence for six months duration for the purpose of drafting an alternative proposed charter for the city of Queens to be submitted for approval and adoption in the manner prescribed by this act. If such alternative charter for the city of Queens receives the affirmative vote of a majority of the votes cast in the election at which it is submitted, such alternative charter shall be adopted. Within three months of adoption of the alternative charter by the voters of Queens, the commission shall submit to the governor, the temporary president of the senate and the speaker of the assembly proposed legislation enabling the borough of Queens to disengage and separate from the city of New York. If such alternative charter for the city of Queens receives the negative vote of a majority of the votes cast in such election, the charter commission shall be dissolved.

3. The charter or alternative charter for the city of Queens shall not become effective unless the legislature enacts legislation enabling the borough of Queens to disengage and separate from the city of New York and, until such time, the borough of Queens shall remain a part of the city of New York. Upon enactment of such enabling legislation, the charter for the city of Queens shall take effect as specified therein.

(f) The provisions of the election law or any other law relating to general or special elections in the city of New York, so far as the same are applicable and not inconsistent, shall apply to the question submitted pursuant to the provisions of this section.

(g) Such charter commission shall provide for such publication or other publicity in respect to the provisions of the proposed new charter for the city of Queens as it may deem proper.

(h) 1. The chair of the commission shall establish an advisory committee on the creation of a school district or districts for the city of Queens. Such committee shall consist of five members, one of whom shall

be appointed upon the recommendation of the commissioner of education, one of whom shall be appointed upon the recommendation of the president of a collective bargaining unit representing teachers; one of whom shall be appointed upon the recommendation of the head of the New York state parent teachers association; and two of whom shall be appointed by the chair of the commission. Such chair shall appoint an advisory committee on civil service rights and retirement benefits for employees of the county of Queens. Such committee shall also consist of five members, one of whom shall be appointed upon the recommendation of the president of the state civil service commission; one of whom shall be appointed upon the recommendation of the mayor of the city of New York; one of whom shall be appointed upon the recommendation of the head of a public employees organization; and two of whom shall be appointed by the chair of the commission. In addition, such chair shall appoint an advisory committee on tax and finance for the city of Queens. Such committee shall consist of five members, one of whom shall be appointed by the chair of the assembly standing committee on ways and means; one of whom shall be appointed by the chair of the senate standing committee on finance; one of whom shall be appointed by the president of the borough of Queens; and two of whom shall be appointed by the chair of the commission. All appointments by the chair shall be made with the consent of the majority of the members of the commission.

2. Such committees shall file their recommendations in a report submitted to the commission on a date fixed by the chair no later than six months prior to the date set for the submission pursuant to subdivision (c) of this section of the proposed charter by the commission and such report shall include proposed legislation to implement such recommendations.

S 5. A commission composed of state legislators (or their designees) whose districts are composed of more than fifty percent of the legislative district's population in the county of Queens shall be established by the charter commission to apportion any local legislative body established by the proposed charter.

S 6. The charter commission for the city of Queens shall also be subject to the following provisions:

(a) No member of the commission may hold any other state or local office, as such terms are defined in section 2 of the public officers law, except that a member of the legislature shall not be disqualified from being a member of such commission pursuant to this subdivision or any other law.

(b) All members of the commission shall be allowed their actual and necessary expenses incurred by them in performance of their duties hereunder. Members of the commission who do not hold public office shall also receive a per diem allowance of one hundred fifty dollars, not to exceed ten thousand dollars in any one fiscal year, when rendering services as such member.

(c) The commission shall employ and may at pleasure remove such employees and consultants as it shall require and fix their compensation within amounts appropriated therefor and may accept any services, facilities or funds and use or expend the same for its purposes.

(d) The commission shall have power to conduct private hearings, take testimony, subpoena witnesses and require the production of books, papers and records.

(e) The commission may request and receive from any state or city of New York department, board, bureau, commission, office, agency or other instrumentality such facilities, assistance, data and personnel as may

be necessary or desirable for the proper execution of its powers and duties.

(f) The terms of office of the members of the commission shall expire upon the adoption of the proposed charter by the voters of the borough of Queens; provided, however, that such terms may continue until the effective date of such charter if revisions and amendments of law, local laws, ordinances, resolutions, charters or codes of the state or city of New York are deemed by the commission to be necessary, then upon the adoption of such new charter such commission shall draft such revisions and amendments of such laws, local laws, ordinances, resolutions, charters or administrative codes as may be necessary as a result of the adoption of such new charter, and submit or cause to be submitted for enactment such revisions and amendments to the legislature and the legislative body of New York city, as may be appropriate, to take effect upon the effective date of such new charter. In such case, the terms of office of the members of such commission shall expire upon such submission of such revisions and amendments.

S 7. Severability. If any sentence, paragraph, section or part of this act shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part.

S 8. This act shall take effect immediately.