

5332

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sen. MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the municipal home rule law and the town law, in relation to adopting local laws and resolutions subject to referendum on petition

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

1     Section 1. Paragraph a of subdivision 1 of section 24 of the municipal  
2 home rule law, as amended by chapter 271 of the laws of 1986, is amended  
3 to read as follows:  
4     a. A local law adopted by a county, city or town and subject to refer-  
5 endum on petition as provided in this section or in any other state  
6 statute, if not also subject to mandatory referendum, shall not take  
7 effect until at least [forty-five] SIXTY days after its adoption; nor  
8 until approved by the affirmative vote of a majority of the qualified  
9 electors of the local government voting on a proposition for its  
10 approval if within [forty-five] SIXTY days after its adoption there be  
11 filed with the clerk a petition protesting against such local law,  
12 signed and authenticated as herein required by qualified electors of  
13 such local government, registered to vote therein at the last preceding  
14 general election, in number equal to at least ten per centum of the  
15 total number of votes cast for governor at the last gubernatorial  
16 election in such local government. If such petition be so filed, a  
17 proposition for the approval of such local law shall be submitted at the  
18 next general election of state or local government officers held in such  
19 local government not less than sixty days after the filing of such peti-  
20 tion, unless the petition request and the legislative body adopt a local  
21 law submitting such proposition at a special election held not less than  
22 sixty days after the adoption of the local law providing for such  
23 special election. The petition may be made upon separate sheets, and the  
24 signatures to each sheet shall be signed and authenticated in the manner  
25 provided by the election law for the signing and authentication of nomi-  
26 nating petitions so far as applicable. The several sheets so signed and  
27 authenticated, when fastened together and offered for filing, shall be

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

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1 deemed to constitute one petition. The clerk shall examine each such  
2 petition so filed with him and not later than thirty days after the date  
3 of its filing, or forty-five days before the day of the election at  
4 which such referendum would appear on the ballot, whichever is earlier,  
5 shall transmit to the legislative body a certificate that he has exam-  
6 ined it and has found that it complies or does not comply, as the case  
7 may be, with all the requirements of law. If within five days after the  
8 last day to file such certificate a written objection to the determi-  
9 nation of the clerk be filed with the supreme court, or any justice  
10 thereof, of a judicial district in which such local government or any  
11 part thereof is located, such court or justice shall determine any ques-  
12 tion arising thereunder and make such order as justice may require. Such  
13 proceeding shall be heard and determined in the manner prescribed by  
14 section 16-116 of the election law.

15 S 2. Section 91 of the town law, as amended by chapter 37 of the laws  
16 of 2000, is amended to read as follows:

17 S 91. Referendum on petition. Any such resolution or act of the town  
18 board as set forth in the preceding section shall not take effect until  
19 [thirty] SIXTY days after its adoption; nor until approved by the affir-  
20 mative vote of a majority of the qualified electors of such town or  
21 district affected, voting on such proposition, if within [thirty] SIXTY  
22 days after its adoption there be filed with the town clerk a petition  
23 signed, and acknowledged or proved, or authenticated by electors of the  
24 town qualified to vote upon a proposition to raise and expend money, in  
25 number equal to at least five per centum of the total vote cast for  
26 governor in said town at the last general election held for the election  
27 of state officers, but which shall not be less than one hundred in a  
28 town of the first class nor less than twenty-five in a town of the  
29 second class, protesting against such act or resolution and requesting  
30 that it be submitted to the qualified electors of the town or district  
31 affected, for their approval or disapproval. If such petition be so  
32 filed not more than seventy-five days nor less than sixty days prior to  
33 a biennial town election, a proposition for the approval of such act or  
34 resolution shall be submitted at such biennial town election. If a peti-  
35 tion be so filed at any other time, a proposition for the approval of  
36 such act or resolution shall be submitted at a special town election to  
37 be held not less than sixty nor more than seventy-five days after the  
38 filing of such petition. The petition may be made upon separate sheets  
39 and the signatures to each sheet shall be authenticated in the manner  
40 provided by the election law for the authentication of nominating  
41 petitions. The several sheets so signed and authenticated when fastened  
42 together and offered for filing shall be deemed to constitute one peti-  
43 tion. If, within five days after the filing of such petition, a written  
44 objection thereto be filed with the town clerk, and a verified petition  
45 setting forth the objections be presented by the person so filing such  
46 objections to the supreme court or any justice thereof of the judicial  
47 district in which such town is located, such court or justice within  
48 twenty days shall determine any question arising thereunder and make  
49 such order as justice may require. Such proceeding shall be heard and  
50 determined in the manner prescribed by section 16-116 of the election  
51 law.

52 S 3. This act shall take effect on the first of September next  
53 succeeding the date on which it shall have become a law and shall apply  
54 to all local laws and resolutions adopted or approved on or after such  
55 effective date.