

5430

2009-2010 Regular Sessions

I N   S E N A T E

May 4, 2009

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Introduced by Sens. AUBERTINE, STACHOWSKI, VALESKY, WINNER, YOUNG -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to municipal annexation

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

1     Section 1. The section heading of section 703 of the general municipal  
2     law, as added by chapter 844 of the laws of 1963, is amended to read as  
3     follows:  
4     Petition [for annexation] BY RESIDENTS OR PROPERTY OWNERS TO INITIATE  
5     ANNEXATION OF TERRITORY.  
6     S 2. The general municipal law is amended by adding a new section  
7     703-a to read as follows:  
8     S 703-A. RESOLUTION BY GOVERNING BOARDS OF MUNICIPALITIES TO INITIATE  
9     ANNEXATION OF TERRITORY. EXCEPT FOR TERRITORY IN AN AGRICULTURAL  
10    DISTRICT, OR OUTSIDE OF SUCH DISTRICT BUT ELIGIBLE FOR AN AGRICULTURAL  
11    ASSESSMENT, PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND  
12    MARKETS LAW, THE GOVERNING BOARDS OF TWO OR MORE MUNICIPALITIES WHICH  
13    HAVE MUTUALLY AGREED TO STUDY THE ANNEXATION OF TERRITORY, MAY, BY JOINT  
14    RESOLUTION, PROPOSE THE ANNEXATION OF SUCH TERRITORY, PURSUANT TO THE  
15    PROVISIONS OF THIS ARTICLE.  
16    S 3. The section heading and subdivision 1 of section 704 of the  
17    general municipal law, as added by chapter 844 of the laws of 1963, are  
18    amended to read as follows:  
19    Notice of hearing on petition [for] OR JOINT RESOLUTION TO INITIATE  
20    annexation OF TERRITORY. 1. [Within twenty days after the receipt of  
21    such petition] IN THE EVENT IT IS PROPOSED TO ANNEX TERRITORY, the  
22    governing board or boards of the local government or governments to  
23    which it is proposed to annex such territory and the governing board or

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

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1 boards of the affected local government or governments in which such  
2 territory is situated shall, WITHIN TWENTY DAYS AFTER RECEIPT OF A PETI-  
3 TION OR ADOPTION OF A JOINT RESOLUTION TO INITIATE ANNEXATION, respec-  
4 tively cause a notice to be published once in its or their official  
5 newspapers, or, if there be no official newspaper, in a newspaper  
6 published in the county and having general circulation within the area  
7 of such local government or governments, as the case may be. The govern-  
8 ing board of each affected local government in which such territory is  
9 situated also shall cause a copy of such notice to be mailed to each  
10 person or corporation owning real property in such territory as shown by  
11 the last preceding assessment roll and to all persons residing in such  
12 territory qualified to vote for officers of the city, town or village,  
13 as the case may be, in which such territory is situated as their names  
14 appear upon the register of voters for the last preceding general  
15 election. Where the territory to be annexed is situated wholly or part-  
16 ly within a village, the governing board of such village and the govern-  
17 ing board of a town or towns in which such territory is wholly or partly  
18 situated may provide by agreement for joint publication and mailing of  
19 such notice. Failure to mail such notice or failure of any addressee to  
20 receive the same shall not in any manner affect the validity of the  
21 petition OR JOINT RESOLUTION TO INITIATE ANNEXATION or of any  
22 proceedings taken thereon. Such notice shall state that a petition for  
23 the annexation of territory OR A JOINT RESOLUTION TO INITIATE ANNEXATION  
24 OF TERRITORY to the local government or governments (naming it or them  
25 and briefly describing the territory proposed to be annexed thereto) has  
26 been [received] PROPOSED, that at a specified place in one of such local  
27 governments on a specified day not less than twenty days nor more than  
28 forty days after the publication and mailing of such notice, which place  
29 and date shall be specified therein, a joint hearing will be had upon  
30 such petition OR JOINT RESOLUTION TO INITIATE ANNEXATION by such govern-  
31 ing boards. Each of such governing boards shall cause a copy of such  
32 notice to be mailed not less than ten days prior to the date of such  
33 joint hearing to the school authorities of any school district in which  
34 all or part of the territory proposed to be annexed is situated and,  
35 where it is proposed to annex territory to a city, to the school author-  
36 ities of any school district (a) adjoining the territory proposed to be  
37 annexed and (b) located wholly or partly within such city.

38 S 4. Section 707 of the general municipal law, as added by chapter 844  
39 of the laws of 1963, is amended to read as follows:

40 S 707. Disposition of property in area proposed to be annexed. 1.  
41 Except as may be provided in an agreement among the affected local  
42 governments, as authorized by subdivision two of this section concerning  
43 the retention, division, REGULATION or other disposition of real and  
44 personal property and rights in real and personal property of any  
45 affected local government or governments or any special or improvement  
46 district in the territory proposed to be annexed, all real or personal  
47 property and rights in real and personal property, including, but not  
48 limited to, LAND USE, streets, avenues, roads, highways, bridges, over-  
49 passes, underpasses, culverts, sidewalks, street lighting fixtures, and  
50 conduits, pipes, drains, either above or below the ground surface, and  
51 appurtenances and appurtenant rights in relation thereto, owned by any  
52 of such local governments (other than the one to which such territory is  
53 annexed) shall become the property of the county, city, village, or town  
54 (where the territory is not annexed to a village or villages in the  
55 town), to which such territory is annexed as of the date of such annexa-  
56 tion, but the ownership of any real and personal property or rights in

1 real and personal property of, or acquired for, special or improvement  
2 districts in such territory shall remain unaffected.

3 2. At any time prior to their determinations as provided by section  
4 seven hundred eleven of this article, the governing boards of the  
5 affected local governments, or their designated representatives, shall  
6 have power to agree on the retention, division, LAND USE or other dispo-  
7 sition, either with or without consideration, of real or personal prop-  
8 erty and rights in real or personal property of any such affected local  
9 government or of any special or improvement districts in which the  
10 territory proposed to be annexed is situated. Any such agreement shall  
11 be in writing and shall be executed by such governing boards, or their  
12 designated representatives, covering the matters agreed upon. Such  
13 agreement may provide for the execution of any deeds or instruments  
14 affecting the retention, division, LAND USE or other disposition of such  
15 property, either with or without consideration. Any such agreement shall  
16 be followed in the local law to be adopted pursuant to section seven  
17 hundred fourteen of this article.

18 S 5. Subdivisions 1 and 2 of section 711 of the general municipal law,  
19 as added by chapter 844 of the laws of 1963, are amended to read as  
20 follows:

21 1. Within ninety days after the hearing held pursuant to section seven  
22 hundred five OF THIS ARTICLE is concluded, the governing board of each  
23 affected local government shall determine by a majority vote of its  
24 total voting strength whether the petition OR JOINT RESOLUTION TO INITI-  
25 ATE ANNEXATION complies with the provisions of this article and whether,  
26 on the basis of considerations including but not limited to those relat-  
27 ing to the effects upon (a) the territory proposed to be annexed, (b)  
28 the local government or governments to which the territory is proposed  
29 to be annexed, (c) the remaining area of the local government or govern-  
30 ments in which the territory is situated and (d) any school district,  
31 fire district or other district corporation, public benefit corporation,  
32 fire protection district, fire alarm district or town or county improve-  
33 ment district, situated wholly or partly in such territory, it is in the  
34 over-all public interest to approve such proposed annexation.

35 2. a. At such time, each such governing board shall adopt a resolution  
36 which shall include findings with respect to compliance of the petition  
37 OR JOINT RESOLUTION TO INITIATE ANNEXATION, with the provisions of this  
38 article and with respect to the effect of such proposed annexation on  
39 the over-all public interest. In the case of a governing board which has  
40 executed any agreement described in subdivision two of section seven  
41 hundred seven or subdivision two of section seven hundred eight of this  
42 article relating to the assumption of indebtedness or other liabilities  
43 or the disposition of property rights in the event of annexation, its  
44 findings with respect to the effect of such annexation on the over-all  
45 public interest shall be based on and include the terms and conditions  
46 of such agreement to the extent applicable. Where no agreement as  
47 described herein governs the assumption of indebtedness or other liabil-  
48 ities or the disposition of property, such findings shall be based on  
49 and include provisions concerning such assumption or disposition  
50 prescribed in subdivision one of section seven hundred seven or subdivi-  
51 sion one of section seven hundred eight of this article, as the case may  
52 be.

53 b. Each such board shall thereupon make and sign a written order  
54 accordingly containing its determination and file copies thereof,  
55 together with copies of the agreement, if any, the petition OR JOINT  
56 RESOLUTION TO INITIATE ANNEXATION, the notice, the written objections,

1 if any, and testimony and minutes of proceedings taken and kept on the  
2 hearing, in the offices of the clerks of all the affected local govern-  
3 ments. In the event that the governing board of an affected local  
4 government does not make, sign and file a written order as required by  
5 this section, such governing board shall be deemed to have approved the  
6 proposed annexation as of the expiration of the ninety-day period  
7 provided in subdivision one [hereof] OF THIS SECTION.

8 S 6. Subdivision 2 of section 713 of the general municipal law, as  
9 added by chapter 844 of the laws of 1963, is amended to read as follows:

10 2. If such proposition is approved by a majority of the qualified  
11 persons voting thereon, the petition OR JOINT RESOLUTION, together with  
12 a certificate of election which shall set forth or have annexed thereto  
13 a description of the territory to be annexed, shall, within twenty days  
14 after such election be filed by the governing board or boards of the  
15 city, town or village, as the case may be, in the office of the clerk of  
16 such local government or governments and in the office of the clerk or  
17 clerks of the local government or governments to which such territory is  
18 to be annexed.

19 S 7. This act shall take effect immediately.