

S T A T E   O F   N E W   Y O R K

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5823--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 2, 2011

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Introduced by M. of A. GUNTHER, PALMESANO, BURLING -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 PROPOSED TO BE ANNEXED  
10 WHICH IS ENTIRELY UNINHABITED OR TERRITORY IN AN AGRICULTURAL DISTRICT,  
11 OR OUTSIDE OF SUCH DISTRICT BUT ELIGIBLE FOR AN AGRICULTURAL ASSESSMENT,  
12 PURSUANT TO ARTICLE TWENTY-FIVE-AA OF THE AGRICULTURE AND MARKETS LAW,  
13 THE GOVERNING BOARDS OF TWO OR MORE MUNICIPALITIES WHICH HAVE MUTUALLY  
14 AGREED TO STUDY THE ANNEXATION OF TERRITORY, MAY, BY JOINT RESOLUTION,  
15 PROPOSE THE ANNEXATION OF SUCH TERRITORY, PURSUANT TO THE PROVISIONS OF  
16 THIS ARTICLE.  
17     S 3. The section heading and subdivision 1 of section 704 of the  
18 general municipal law, as added by chapter 844 of the laws of 1963, are  
19 amended to read as follows:  
20     Notice of hearing on petition [for] OR JOINT RESOLUTION TO INITIATE  
21 annexation OF TERRITORY. 1. [Within twenty days after the receipt of  
22 such petition] IN THE EVENT IT IS PROPOSED TO ANNEX TERRITORY, the

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

LBD09868-04-2

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

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

48 S 707. Disposition of property in area proposed to be annexed. 1.  
49 Except as may be provided in an agreement among the affected local  
50 governments, as authorized by subdivision two of this section concerning  
51 the retention, division, REGULATION, LAND USE or other disposition of  
52 real and personal property and rights in real and personal property of  
53 any affected local government or governments or any special or improve-  
54 ment district in the territory proposed to be annexed, all real or  
55 personal property and rights in real and personal property, including,  
56 but not limited to, LAND USE, streets, avenues, roads, highways, bridg-

1 es, overpasses, underpasses, culverts, sidewalks, street lighting  
2 fixtures, and conduits, pipes, drains, either above or below the ground  
3 surface, and appurtenances and appurtenant rights in relation thereto,  
4 owned by any of such local governments (other than the one to which such  
5 territory is annexed) shall become the property of the county, city,  
6 village, or town (where the territory is not annexed to a village or  
7 villages in the town), to which such territory is annexed as of the date  
8 of such annexation, but the ownership of any real and personal property  
9 or rights in real and personal property of, or acquired for, special or  
10 improvement districts in such territory shall remain unaffected.

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

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

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

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

1 and include provisions concerning such assumption or disposition  
2 prescribed in subdivision one of section seven hundred seven or subdivi-  
3 sion one of section seven hundred eight of this article, as the case may  
4 be.

5 b. Each such board shall thereupon make and sign a written order  
6 accordingly containing its determination and file copies thereof,  
7 together with copies of the agreement, if any, the petition OR JOINT  
8 RESOLUTION TO INITIATE ANNEXATION, the notice, the written objections,  
9 if any, and testimony and minutes of proceedings taken and kept on the  
10 hearing, in the offices of the clerks of all the affected local govern-  
11 ments. In the event that the governing board of an affected local  
12 government does not make, sign and file a written order as required by  
13 this section, such governing board shall be deemed to have approved the  
14 proposed annexation as of the expiration of the ninety-day period  
15 provided in subdivision one [hereof] OF THIS SECTION.

16 S 6. Subdivisions 1 and 2 of section 713 of the general municipal law,  
17 as added by chapter 844 of the laws of 1963, is amended to read as  
18 follows:

19 1. Not later than ninety days after the entry of a final judgment of a  
20 court or the filing in the offices of the clerks of the affected local  
21 governments of orders of the governing boards of such affected local  
22 governments approving a proposed annexation, the governing board of each  
23 city, town and village in which such territory is situated shall call a  
24 special election to be conducted in the manner hereinafter provided to  
25 determine whether the proposed annexation should be approved, provided,  
26 however, that the governing board of a town shall call such election  
27 only with respect to territory outside any village situated therein. All  
28 persons residing in such territory proposed to be annexed, OR RESIDING  
29 OUTSIDE OF THE TERRITORY PROPOSED TO BE ANNEXED BUT RESIDING ON A PARCEL  
30 OF LAND WHERE A PORTION OF SUCH PARCEL IS WITHIN SUCH TERRITORY PROPOSED  
31 TO BE ANNEXED, and qualified to vote for officers of the city, town or  
32 village, as the case may be, in which such territory is situated shall  
33 be entitled to vote. The proposition to be voted upon shall state "Shall  
34 the territory generally described below be annexed to the .....  
35 (name of local government or governments)?" Below such question the  
36 territory proposed to be annexed shall be briefly described. Except as  
37 otherwise provided herein, such election shall be conducted in the  
38 manner provided by law for the conduct of special elections in the city,  
39 town or village, as the case may be, in which such territory is situ-  
40 ated.

41 2. If such proposition is approved by a majority of the qualified  
42 persons voting thereon, the petition OR JOINT RESOLUTION, together with  
43 a certificate of election which shall set forth or have annexed thereto  
44 a description of the territory to be annexed, shall, within twenty days  
45 after such election be filed by the governing board or boards of the  
46 city, town or village, as the case may be, in the office of the clerk of  
47 such local government or governments and in the office of the clerk or  
48 clerks of the local government or governments to which such territory is  
49 to be annexed.

50 S 7. This act shall take effect immediately.