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

3640

2011-2012 Regular Sessions

I N S E N A T E

February 28, 2011

Introduced by Sen. OPPENHEIMER -- 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 the consolidation and dissolution of local government

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

Section 1. Subdivisions 1 and 2 of section 757 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended and a new subdivision 2-a is added to read as follows:

1. The electors of two or more local government entities may commence a consolidation proceeding by filing an original petition, containing not less than the number of signatures provided for in subdivision two of this section and in the form provided for in subdivision three of this section, with the clerk of the town in which the entities or the greater portion of their territory are located, except that if one or more of the entities to be consolidated is a village the original petition of electors from the village shall be filed with the clerk of the village. Accompanying the filed petition shall be a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person. A PETITION MAY NOT BE SUBMITTED PURSUANT TO THIS SECTION IF A RESOLUTION INITIATING THE PROCESS FOR CONSOLIDATION OF TWO OR MORE GOVERNMENT ENTITIES HAS BEEN ADOPTED PURSUANT TO SECTIONS SEVEN HUNDRED FIFTY-ONE AND SEVEN HUNDRED FIFTY-TWO OF THIS TITLE UNTIL SUCH PROCESS HAS BEEN COMPLETED; EXCEPT THAT SUCH PETITIONS SHALL NOT BE BARRED IN CASES WHERE THE POST REFERENDUM PLANNING PROCESS FOR A LOCAL GOVERNMENT ENTITY INITIATED CONSOLIDATION IS TO TAKE MORE THAN FOUR HUNDRED FIFTY DAYS.

2. The petition shall contain the signatures of at least ten percent of the number of electors, AS OF THE DATE OF THE LAST NOVEMBER GENERAL ELECTION or five thousand electors, whichever is less, in each local government entity to be consolidated; provided, however, that where the

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

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local government entity to be consolidated contains five hundred or fewer electors, the petition shall contain the signatures of at least twenty percent of the number of electors. No signature on a petition is valid unless it is the original signature of an elector.

2-A. PETITIONS INITIATED PURSUANT TO THIS SECTION SHALL BE FILED ON THE SAME DATE AND IN THE SAME MANNER AS NOMINATING AND DESIGNATING PETITIONS ARE FILED PURSUANT TO SECTION 6-158 OF THE ELECTION LAW. A SIGNATURE MADE EARLIER THAN SIXTY DAYS PRIOR TO THE LAST DAY TO FILE SUCH PETITIONS SHALL NOT BE COUNTED.

S 2. The general municipal law is amended by adding a new section 757-a to read as follows:

S 757-A. TENTATIVE PLAN OR PROSPECTUS. 1. THE CONTACT PERSON IDENTIFIED ON THE COVER SHEET OF THE ORIGINAL PETITION SHALL FILE A TENTATIVE PLAN OR PROSPECTUS OF THE PROPOSED CONSOLIDATION WITH THE FILING OF THE PETITION. THE TENTATIVE PLAN OR PROSPECTUS WILL INCLUDE AN OUTLINE OF THE PROPOSED CONSOLIDATION AS CONTEMPLATED BY INDIVIDUALS PROPOSING SUCH CONSOLIDATION.

2. SUCH TENTATIVE PLAN OR PROSPECTUS CAN BE MODIFIED DURING THE PLANING PROCESS THAT WOULD OCCUR UPON PASSAGE OF THE REFERENDUM. THE TENTATIVE PLAN OR PROSPECTUS SHALL BE MADE AVAILABLE TO THE PUBLIC WITH OTHER NOTICE INFORMATION AS PROVIDED IN SECTION SEVEN HUNDRED SIXTY-ONE OF THIS TITLE. THE TENTATIVE PLAN OR PROSPECTUS SHALL INCLUDE STATEMENTS THAT OUTLINE THE STRUCTURE OF THE CONSOLIDATION ON THE FOLLOWING ISSUES:

(A) THE NAME OF EACH LOCAL GOVERNMENT ENTITY TO BE CONSOLIDATED;

(B) THE NAME OF THE PROPOSED CONSOLIDATED LOCAL GOVERNMENT ENTITY, WHICH NAME SHALL BE SUCH AS TO DISTINGUISH IT FROM THE NAME OF ANY OTHER LIKE UNIT OF GOVERNMENT IN THE STATE OF NEW YORK (EXCEPT THE NAME OF ANY ONE OF THE ENTITIES TO BE CONSOLIDATED);

(C) THE RIGHTS, DUTIES AND OBLIGATIONS OF THE PROPOSED CONSOLIDATED LOCAL GOVERNMENT ENTITY;

(D) THE TERRITORIAL BOUNDARIES OF THE PROPOSED CONSOLIDATED LOCAL GOVERNMENT ENTITY;

(E) THE GOVERNMENTAL ORGANIZATION OF THE PROPOSED CONSOLIDATED LOCAL GOVERNMENT ENTITY INSOFAR AS IT CONCERNS ELECTED AND APPOINTED OFFICIALS AND PUBLIC EMPLOYEES, ALONG WITH A TRANSITIONAL PLAN AND SCHEDULE FOR ELECTIONS AND APPOINTMENTS OF OFFICIALS;

(F) A FISCAL ESTIMATE OF THE COST OF AND SAVINGS WHICH MAY BE REALIZED FROM CONSOLIDATION INCLUDING BUT NOT LIMITED TO EFFICIENCIES, RESTRUCTURING, OR DISCONTINUING SERVICES AND PROJECTED CHANGES IN AID FROM THE STATE;

(G) THE CONTEMPLATED DISPOSITION OF EACH ENTITY'S ASSETS;

(H) THE CONTEMPLATED DISPOSITION OF EACH ENTITY'S LIABILITIES AND INDEBTEDNESS, BONDED AND OTHERWISE; AND

(I) CONTEMPLATED TRANSITION OR DISCONTINUANCE OF LOCAL LAWS, ORDINANCES, RESOLUTIONS, ORDERS AND THE LIKE, WITHIN THE PROPOSED CONSOLIDATED LOCAL GOVERNMENT ENTITY.

S 3. Section 758 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

S 758. Conduct of referendum. 1. A referendum required by [sections] SECTION seven hundred fifty-five or seven hundred fifty-seven of this title shall be placed before the electors of each of the local government entities to be consolidated at [a special election to be held not less than sixty or more than ninety days after the enactment of a resolution calling for such referendum, provided, however, that in cases where a town or village general election falls within such period, the question may be considered during a town or village general election.

2. The referendum may be held in each local government entity on the same day, or on different days, however, not more than twenty days apart.

3.] EITHER THE GENERAL ELECTION IN NOVEMBER OR AT A VILLAGE GENERAL ELECTION.

2. Notice of the referendum shall be given to the electors of each local government entity to be consolidated by publication in a newspaper having a general circulation within the boundaries of each entity at least once a week for four consecutive weeks immediately prior to the referendum. The notice shall include, but not be limited to:

(a) a summary of the contents of the resolution and joint consolidation agreement or petition for consolidation, as the case may be;

(b) a statement as to where may be examined a copy of the resolution and joint consolidation agreement or petition for consolidation, as the case may be;

(c) the names of the local government entities to be consolidated and a description of their territory;

(d) with respect to a resolution calling for a referendum under section seven hundred fifty-five of this title only, the name of the proposed consolidated local government entity;

(e) the time and place or places at which the referendum will be held; and

(f) such other matters as may be necessary to call, provide for and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns thereupon.

[4.] 3. The referendum question placed before the electors of each local government entity to be consolidated shall be in a form reading substantially as follows:

"Shall (insert type and name of local government entity) be consolidated with (insert type and name of local government entity or entities)?

YES _____

NO _____"

[5.] 4. In any referendum held pursuant to this title, each local government entity to be consolidated shall bear only the costs of holding such referendum in its respective entity and shall not be required to bear the costs of a referendum held in any other entity.

[6.] 5. In any referendum held pursuant to this title, and except as otherwise specified herein, the referendum shall be conducted in the same manner as other municipal elections or referendums for the local government entities to be consolidated.

S 4. Subdivision 1 of section 760 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

1. In the case of a proposed consolidation of local government entities properly initiated by petition of electors pursuant to section seven hundred fifty-seven of this title, if a majority of the electors voting in a referendum held in each of the local government entities to be consolidated vote in favor of consolidation, the entities' governing body or bodies shall meet within thirty days after certification of the favorable vote and, within [one hundred eighty] FOUR HUNDRED FIFTY days of such meeting, prepare and approve by resolution a proposed elector initiated consolidation plan.

S 5. Subdivisions 1, 2 and 3 of section 763 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

1. Local government entities consolidated pursuant to an elector initiated [consolidated] CONSOLIDATION plan shall continue to be governed as before consolidation until the effective date of the consolidation specified in such plan, which date shall be no less than [forty-five] SIXTY days after final approval of such plan pursuant to subdivision three of section seven hundred sixty-two or subdivision four of section seven hundred sixty-four of this title.

2. Notwithstanding subdivision one of this section, the elector initiated consolidation plan shall not take effect if, no later than [forty-five] SIXTY days after final approval thereof pursuant to subdivision three of section seven hundred sixty-two or subdivision four of section seven hundred sixty-four of this title, electors of a local government entity to be consolidated pursuant to such plan shall:

(a) file an original petition, containing not less than the number of signatures provided for in subdivision three of this section, seeking a referendum on the question whether the elector initiated consolidation plan shall take effect, with the clerk of the town in which the entity or the greater portion of its territory is located, except that if the entity is a village the original petition of electors from the village shall be filed with the clerk of the village; and

(b) thereafter less than a majority of the electors in the entity vote in the affirmative on such question at a referendum.

3. The petition shall be circulated, signed and authenticated in substantial compliance with the provisions of section seven hundred fifty-seven of this title, shall contain the signatures of at least [twenty-five] TEN percent of the number of electors or fifteen thousand electors, whichever is less, in the local government entity to be consolidated, and shall be accompanied by a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person.

S 6. Subdivisions 1 and 2 of section 779 of the general municipal law, as added by chapter 74 of the laws of 2009 are amended and a new subdivision 2-a is added to read as follows:

1. The electors of a local government entity may commence a dissolution proceeding by filing an original petition, containing not less than the number of signatures provided for in subdivision two of this section and in the form provided for in subdivision three of this section, with the clerk of the town in which the entity or the greater portion of its territory is located, except that if the entity is a village the original petition of electors from the village shall be filed with the clerk of the village. Accompanying the filed petition shall be a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person. A PETITION MAY NOT BE SUBMITTED PURSUANT TO THIS SECTION IF A RESOLUTION INITIATING THE DISSOLUTION PROCESS HAS BEEN ADOPTED PURSUANT TO SECTION SEVEN HUNDRED SEVENTY-FOUR OF THIS TITLE UNTIL SUCH PROCESS HAS BEEN COMPLETED; EXCEPT THAT SUCH PETITIONS SHALL NOT BE BARRED IN CASES WHERE THE POST REFERENDUM PLANNING PROCESS FOR A LOCAL GOVERNMENT ENTITY INITIATED DISSOLUTION IS TO TAKE MORE THAN FOUR HUNDRED FIFTY DAYS.

2. The petition shall contain the signatures of at least ten percent of the number of electors, AS OF THE DATE OF THE LAST NOVEMBER GENERAL ELECTION or five thousand electors, whichever is less, in the local government entity to be dissolved; provided, however, that where the local government entity to be dissolved contains five hundred or fewer electors, the petition shall contain the signatures of at least twenty

percent of the number of electors. No signature on a petition is valid unless it is an original signature of an elector.

2-A. PETITIONS INITIATED PURSUANT TO THIS SECTION SHALL BE FILED ON THE SAME DATE AND IN THE SAME MANNER AS NOMINATING AND DESIGNATING PETITIONS ARE FILED PURSUANT TO SECTION 6-158 OF THE ELECTION LAW. A SIGNATURE MADE EARLIER THAN SIXTY DAYS PRIOR TO THE LAST DAY TO FILE SUCH PETITIONS SHALL NOT BE COUNTED.

S 7. The general municipal law is amended by adding a new section 779-a to read as follows:

S 779-A. TENTATIVE PLAN OR PROSPECTUS. 1. THE CONTACT PERSON IDENTIFIED ON THE COVER SHEET OF THE ORIGINAL PETITION SHALL FILE A TENTATIVE PLAN OR PROSPECTUS OF THE PROPOSED DISSOLUTION WITH THE FILING OF THE PETITION. THE TENTATIVE PLAN OR PROSPECTUS WILL INCLUDE AN OUTLINE OF THE PROPOSED DISSOLUTION AS CONTEMPLATED BY INDIVIDUALS PROPOSING SUCH DISSOLUTION.

2. SUCH TENTATIVE PLAN OR PROSPECTUS CAN BE MODIFIED DURING THE PLANNING PROCESS THAT WOULD OCCUR UPON PASSAGE OF THE REFERENDUM. THE TENTATIVE PLAN OR PROSPECTUS SHALL BE MADE AVAILABLE TO THE PUBLIC WITH OTHER NOTICE INFORMATION AS PROVIDED IN SECTION SEVEN HUNDRED EIGHTY-THREE OF THIS TITLE. THE TENTATIVE PLAN OR PROSPECTUS SHALL INCLUDE STATEMENTS THAT OUTLINE THE STRUCTURE OF THE DISSOLUTION ON THE FOLLOWING ISSUES:

(A) THE NAME OF THE LOCAL GOVERNMENT ENTITY TO BE DISSOLVED;

(B) THE TERRITORIAL BOUNDARIES OF THE ENTITY;

(C) THE TYPE AND/OR CLASS OF THE ENTITY;

(D) A FISCAL ESTIMATE OF THE COST OF DISSOLUTION INCLUDING BUT NOT LIMITED TO EFFICIENCIES, RESTRUCTURING, OR DISCONTINUING SERVICES AND PROJECTED CHANGES IN AID FROM THE STATE;

(E) ANY PLAN FOR THE TRANSFER OR ELIMINATION OF PUBLIC EMPLOYEES;

(F) CONTEMPLATED DISPOSITION OF THE ENTITY'S ASSETS;

(G) CONTEMPLATED DISPOSITION OF THE ENTITY'S LIABILITIES AND INDEBTEDNESS, BONDED AND OTHERWISE;

(H) ANY AGREEMENTS ENTERED INTO WITH THE TOWN OR TOWNS IN WHICH THE ENTITY IS SITUATED IN ORDER TO CARRY OUT THE DISSOLUTION;

(I) THE MANNER AND MEANS BY WHICH THE RESIDENTS OF THE ENTITY WILL CONTINUE TO BE FURNISHED MUNICIPAL SERVICES FOLLOWING THE ENTITY'S DISSOLUTION;

(J) FINDINGS AS TO WHETHER ANY LOCAL LAWS, ORDINANCES, RULES OR REGULATIONS OF THE ENTITY SHALL REMAIN IN EFFECT AFTER THE EFFECTIVE DATE OF THE DISSOLUTION; AND

(K) ANY OTHER MATTER DESIRABLE OR NECESSARY TO CARRY OUT THE DISSOLUTION.

S 8. Section 780 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

S 780. Conduct of referendum. 1. A referendum on a proposed dissolution required by sections seven hundred seventy-seven or seven hundred seventy-nine of this title shall be placed before the electors in the local government entity to be dissolved at [a special election to be held not less than sixty or more than ninety days after the enactment of a resolution calling for the referendum, provided, however, that in cases where a town or village general election falls within such period, the referendum question may be considered during a town or village general election] EITHER THE GENERAL ELECTION IN NOVEMBER OR AT A VILLAGE GENERAL ELECTION.

2. Notice of the referendum shall be given to the electors of the local government entity to be dissolved by publication in a newspaper having a general circulation within the boundaries of the entity at

least once a week for four consecutive weeks immediately prior to the referendum. The notice shall include, but not be limited to:

(a) a summary of the contents of the resolution and dissolution plan or petition for dissolution, as the case may be;

(b) a statement as to where may be examined copies of the resolution and dissolution plan or petition for dissolution, as the case may be;

(c) the name of the local government entity to be dissolved and a statement fully describing its territory;

(d) the time and place or places at which the referendum will be held; and

(e) such other matters as may be necessary to call, provide for and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns thereupon.

3. The referendum question placed before the electors of the local government entity to be dissolved shall be in a form reading substantially as follows:

"Shall (insert type and name of local government entity) be dissolved?

YES _____

NO _____"

4. In any referendum held pursuant to this title, the local government entity to be dissolved shall bear the costs associated with the conduct of such referendum.

5. In any referendum held pursuant to this title, and except as otherwise specified herein, the referendum shall be conducted in the same manner as other municipal elections or referendums for the local government entity affected by the proposed dissolution.

S 9. Subdivision 1 of section 782 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

1. In the case of a proposed dissolution of a local government entity properly initiated by petition of electors pursuant to section seven hundred seventy-nine of this title, if a majority of the electors voting at a referendum vote in favor of dissolution, the entity's governing body shall meet within thirty days after certification of the favorable vote and, within [one hundred eighty] FOUR HUNDRED FIFTY days of such meeting, prepare and approve a proposed elector initiated dissolution plan.

S 10. Subdivisions 1, 2 and 3 of section 785 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

1. A local government entity dissolved pursuant to an elector initiated dissolution plan shall continue to be governed as before dissolution until the effective date of the dissolution specified in the elector initiated dissolution plan, which date shall be no less than [forty-five] SIXTY days after final approval of such plan pursuant to subdivision three of section seven hundred eighty-four or subdivision three of section seven hundred eighty-six of this title.

2. Notwithstanding subdivision one of this section, the elector initiated dissolution plan shall not take effect if, no later than [forty-five] SIXTY days after final approval of such plan pursuant to subdivision three of section seven hundred eighty-four or subdivision three of section seven hundred eighty-six of this title, electors of the local government entity to be dissolved shall:

(a) file an original petition, containing not less than the number of signatures provided for in subdivision three of this section, seeking a referendum on the question whether the elector initiated dissolution plan shall take effect, with the clerk of the town in which the entity

or the greater portion of its territory is located, except that if the entity is a village the original petition of electors from the village shall be filed with the clerk of the village; and

(b) thereafter less than a majority of the electors vote in the affirmative on such question at a referendum.

3. The petition shall be circulated, signed and authenticated in substantial compliance with the provisions of section seven hundred seventy-nine of this title, shall contain the signatures of at least [twenty-five] TEN percent of the number of electors or fifteen thousand electors, whichever is less, in the local government entity to be dissolved, and shall be accompanied by a cover sheet containing the name, address and telephone number of an individual who signed the petition and who will serve as a contact person.

S 11. This act shall take effect on the thirtieth day after it shall have become a law; provided, however that any signatures made on petitions for consolidation or dissolution which are initiated prior to such effective date and which are otherwise valid shall be counted.