

6014

2015-2016 Regular Sessions

I N A S S E M B L Y

March 10, 2015

Introduced by M. of A. GALEF -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law and the town law, in relation to establishing a petition process to change the elective office of superintendent of highways to appointive

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

1 Section 1. The general municipal law is amended by adding a new arti-
2 cle 17-B to read as follows:

3 ARTICLE 17-B
4 PETITION PROCESS TO CERTAIN
5 POSITIONS

6 SECTION 799-A. DEFINITIONS.

7 799-B. PROCESS UPON PETITION OR RESOLUTION.

8 799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE
9 OFFICE OF SUPERINTENDENT OF HIGHWAYS TO APPOINTIVE.

10 S 799-A. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

11 1. THE TERM "QUALIFIED ELECTOR" SHALL MEAN A PERSON WHO IS REGISTERED
12 TO VOTE IN ACCORDANCE WITH THE PROVISIONS OF THE ELECTION LAW.

13 2. THE TERM "PARTICIPATING MUNICIPALITY" SHALL MEAN A TOWN OR VILLAGE
14 THAT HAS STARTED THE PETITION PROCESS PURSUANT TO SECTION SEVEN HUNDRED
15 NINETY-NINE-B OF THIS ARTICLE.

16 S 799-B. PROCESS UPON PETITION OR RESOLUTION. 1. THE PROCESS SHALL
17 START IN A MUNICIPALITY ONCE A PETITION FROM THE RESIDENTS IS FILED WITH
18 THE MUNICIPAL CLERK.

19 2. UPON RECEIVING A PETITION FROM THE RESIDENTS, THE PARTICIPATING
20 MUNICIPALITY SHALL SUBMIT THE QUESTION OF THE CHANGE OF OFFICE OF THE
21 SUPERINTENDENT OF HIGHWAYS.

22 3. A CERTIFICATE OF THE ELECTION SHALL BE FILED WITH THE SECRETARY OF
23 STATE, WITH THE CLERKS OF EACH PARTICIPATING MUNICIPALITY, AND WITH THE

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

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1 CLERKS OF EACH COUNTY IN WHICH ANY PART OF THE PARTICIPATING MUNICI-
2 PALITY IS LOCATED.

3 4. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPAT-
4 ING MUNICIPALITY, ARE IN THE AFFIRMATIVE, THE MUNICIPALITY WITHIN THIRTY
5 DAYS OF THE DATE OF THE REFERENDUM SHALL NOTIFY SUCH SUPERINTENDENT OF
6 HIGHWAYS THAT HE OR SHE SHALL SERVE OUT THEIR REMAINING TERM.

7 5. IF THE MAJORITY OF VOTES CAST ON THE REFERENDUM IN EACH PARTICIPAT-
8 ING MUNICIPALITY ARE IN THE NEGATIVE, THE REFERENDUM SHALL FAIL AND THE
9 PETITION PROCESS MAY NOT BE INITIATED FOR THE SAME PURPOSE WITHIN TWO
10 YEARS OF THE DATE OF SUCH REFERENDUM.

11 S 799-C. PETITION TO START THE PROCESS TO CHANGE THE ELECTIVE OFFICE
12 OF SUPERINTENDENT OF HIGHWAYS TO APPOINTIVE. 1. ELIGIBLE SIGNATURES. TO
13 START THE PETITION PROCESS, A PETITION MUST HAVE SIGNATURES FROM RESI-
14 DENTS OF THE JURISDICTION, EQUAL TO AT LEAST TEN PERCENT OF THE RESIDENT
15 ELECTORS QUALIFIED TO VOTE IN THE LAST GENERAL ELECTION. THOSE SIGNING
16 THE PETITION MUST BE QUALIFIED TO VOTE AT THE TIME OF THE FILING OF THE
17 PETITION WITH THE MUNICIPAL CLERK.

18 2. TIME LIMIT. A SIGNATURE SHALL BE INVALID IF IT IS SIGNED UPON THE
19 PETITION MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE PETITION IS FILED
20 WITH THE MUNICIPAL CLERK, UNLESS THE GOVERNING BOARD PASSES A RESOLUTION
21 TO GIVE ADDITIONAL TIME TO COLLECT SIGNATURES.

22 3. FORM. THE PETITION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:
23 PETITION

24 WE, THE UNDERSIGNED, ELECTORS OF THE (INSERT TYPE OF MUNICIPALITY - TOWN
25 OR VILLAGE) OF (INSERT NAME OF MUNICIPALITY), NEW
26 YORK, QUALIFIED TO VOTE AT THE NEXT GENERAL OR SPECIAL ELECTION, DO
27 HEREBY PETITION THAT THERE BE SUBMITTED TO THE VOTERS OF (INSERT NAME OF
28 MUNICIPALITY), PURSUANT TO LAW, A PROPOSITION AS FOLLOWS: (INSERT
29 PROPOSITION SOUGHT TO BE SUBMITTED) THE UNDERSIGNED QUALIFIED ELECTORS
30 HEREBY REQUEST THAT A REFERENDUM VOTE UPON THE ABOVE PROPOSITION BE
31 TAKEN AS PROVIDED BY LAW. IN WITNESS WHEREOF, WE HAVE SIGNED OUR NAMES
32 ON THE DATES INDICATED NEXT TO OUR SIGNATURES.

33 DATE NAME - PRINT NAME UNDER SIGNATURE HOME ADDRESS
34 1. _____
35 2. _____
36 3. _____

37 (ON THE BOTTOM OF EACH PAGE, AFTER ALL THE NUMBERED SIGNATURES, INSERT A
38 WITNESS STATEMENT OR A STATEMENT BY A NOTARY PUBLIC OR COMMISSIONER OF
39 DEEDS, IN SUBSTANTIALLY THE FOLLOWING FORM:)

40 I, (NAME OF WITNESS), STATE THAT I AM A REGISTERED VOTER OF THE STATE OF
41 NEW YORK. I AM A RESIDENT OF THE (TOWN OR VILLAGE) OF (NAME OF TOWN OR
42 VILLAGE). THE PERSONS THAT HAVE SIGNED THIS PETITION SHEET CONTAINING
43 (FILL IN NUMBER) SIGNATURES, HAVE SIGNED THEIR NAMES IN MY PRESENCE ON
44 THE DATES INDICATED ABOVE AND IDENTIFIED THEMSELVES TO BE THE SAME
45 PERSONS WHO SIGNED THE SHEET. I UNDERSTAND THAT THIS STATEMENT WILL BE
46 ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT, AND IF IT
47 CONTAINS A MATERIALLY FALSE STATEMENT, SHALL SUBJECT ME TO THE PENALTIES
48 OF PERJURY.

49 _____
50 DATE SIGNATURE OF WITNESS

51 (IN LIEU OF THE SIGNED STATEMENT OF A WITNESS WHO IS A DULY QUALIFIED
52 VOTER OF THE STATE, QUALIFIED TO SIGN THE PETITION AS A RESIDENT OF THE
53 TOWN OR VILLAGE, THE FOLLOWING STATEMENT SIGNED BY A NOTARY PUBLIC OR A
54 COMMISSIONER OF DEEDS SHALL BE ACCEPTED.) ON THE DATE ABOVE INDICATED
55 BEFORE ME PERSONALLY CAME EACH OF THE VOTERS WHOSE SIGNATURES APPEAR ON
56 THIS PETITION SHEET CONTAINING (FILL IN NUMBER) SIGNATURES, WHO SIGNED

1 SAME IN MY PRESENCE AND WHO, BEING BY ME DULY SWORN, EACH FOR HIMSELF OR
2 HERSELF, SAID THAT THE FOREGOING STATEMENT MADE AND SUBSCRIBED BY HIM OR
3 HER, WAS TRUE.
4

5 _____
6 DATE NOTARY PUBLIC OR COMMISSIONER OF DEEDS

7 4. LIBERAL CONSTRUCTION. IN MATTERS OF FORM, THIS SECTION SHALL BE
8 GIVEN A LIBERAL CONSTRUCTION, AND PRECISE COMPLIANCE IS NOT REQUIRED.

9 S 2. Paragraph (b) of subdivision 6 of section 20 of the town law, as
10 added by chapter 792 of the laws of 1934 and as relettered by chapter
11 302 of the laws of 1974, is amended to read as follows:

12 (b) (I) At least one hundred fifty days prior to any biennial town
13 election the town board of any town in which the appointive office of
14 town superintendent of highways shall exist, may adopt a resolution,
15 subject to a permissive referendum that the office of town superinten-
16 dent of highways shall be an elective office in such town. Every elector
17 of the town shall be entitled to vote at any referendum held thereon
18 pursuant to the provisions of article seven of this chapter. If the town
19 board shall have adopted such a resolution and no petition shall have
20 been filed within the time specified in article seven OF THIS CHAPTER
21 for a referendum thereon, or, if a majority of the votes cast on any
22 such proposition submitted pursuant to the provisions of article seven
23 OF THIS CHAPTER be in the affirmative the office of town superintendent
24 of highways shall thereafter be an elective office in such town, and a
25 town superintendent of highways shall be elected at the succeeding bien-
26 nial town election for the term provided by this chapter, beginning on
27 the first day of January next succeeding such biennial town election and
28 the term of office of the appointive town superintendent of highways for
29 whom such successor shall be elected shall expire on said first day of
30 January.

31 (II) EVERY ELECTOR OF THE TOWN SHALL BE ENTITLED TO VOTE AT ANY REFER-
32 ENDUM HELD THEREON PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN OF THIS
33 CHAPTER. IF THE TOWN BOARD SHALL HAVE ADOPTED SUCH A RESOLUTION AND NO
34 PETITION SHALL HAVE BEEN FILED WITHIN THE TIME SPECIFIED IN ARTICLE
35 SEVEN OF THIS CHAPTER FOR A REFERENDUM THEREON, OR, IF A MAJORITY OF THE
36 VOTES CAST ON ANY SUCH PROPOSITION SUBMITTED PURSUANT TO THE PROVISIONS
37 OF ARTICLE SEVEN OF THIS CHAPTER BE IN THE AFFIRMATIVE, THE OFFICE OF
38 TOWN SUPERINTENDENT OF HIGHWAYS SHALL THEREAFTER BE AN APPOINTIVE OFFICE
39 IN SUCH TOWN, AND THE TOWN BOARD SHALL APPOINT A TOWN SUPERINTENDENT OF
40 HIGHWAYS FOR THE TERM PROVIDED BY THIS CHAPTER, BEGINNING ON THE FIRST
41 DAY OF JANUARY NEXT SUCCEEDING SUCH BIENNIAL TOWN ELECTION AND THE TERM
42 OF OFFICE OF THE ELECTIVE TOWN SUPERINTENDENT OF HIGHWAYS FOR WHOM SUCH
43 SUCCESSOR SHALL BE APPOINTED SHALL EXPIRE ON SAID FIRST DAY OF JANUARY.

44 S 3. Paragraph 5 of subdivision 21-a of section 64 of the town law is
45 renumbered paragraph 6 and a new paragraph 5 is added to read as
46 follows:

47 5. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW
48 TO THE CONTRARY, EVERY TOWN WHICH HAS ESTABLISHED A DEPARTMENT OF PUBLIC
49 WORKS PURSUANT TO THIS SECTION MAY ADOPT A RESOLUTION, SUBJECT TO
50 PERMISSIVE REFERENDUM AS PROVIDED BY ARTICLE SEVEN OF THIS CHAPTER, THAT
51 THE OFFICE OF THE TOWN SUPERINTENDENT OF HIGHWAYS SHALL BE ABOLISHED.
52 THE COMMISSIONER OF PUBLIC WORKS SHALL THEREAFTER BE THE HEAD OF THE
53 DEPARTMENT OF PUBLIC WORKS AND THE HIGHWAY DEPARTMENT, AND HE OR SHE
54 SHALL HAVE ALL THE POWERS AND DUTIES CONFERRED UPON THE SUPERINTENDENT
55 OF HIGHWAYS WITHIN THIS CHAPTER, THE HIGHWAY LAW, AND ANY OTHER GENERAL,
56 SPECIAL, OR LOCAL LAW, RULE, REGULATION OR CODE.

S 4. This act shall take effect immediately.