

STATE OF NEW YORK

5636

2017-2018 Regular Sessions

IN ASSEMBLY

February 14, 2017

Introduced by M. of A. CURRAN, FINCH -- Multi-Sponsored by -- M. of A. GRAF -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, the town law, the village law and the local finance law in relation to exempting villages and fire districts from the local consolidation or dissolution of local governments; and to repeal certain provisions of the general municipal law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 4 and 13 of section 750 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

2 4. "Contiguous" shall mean when a portion of a town [~~or village~~] abuts
3 the boundary of another town [~~or village~~], including a town [~~or village~~]
4 separated from the exact boundary of another town [~~or village~~] by a
5 street, road, railroad, highway, river or other natural or artificial
6 stream or body of water.

7 13. "Local government entity" or "entity" shall mean a town,
8 [~~village,~~] district, special improvement district or other improvement
9 district, including, but not limited to, special districts created
10 pursuant to articles eleven, twelve, twelve-A or thirteen of the town
11 law, library districts, and other districts created by law; provided,
12 however, that a local government entity shall not include villages,
13 school districts, city districts, fire districts, or special purpose
14 districts created by counties under county law.

15 § 2. Section 756 of the general municipal law, as added by chapter 74
16 of the laws of 2009, is amended to read as follows:

17 § 756. Effective date of joint consolidation agreement. Local govern-
18 ment entities consolidated pursuant to a joint consolidation agreement
19 shall continue to be governed as before consolidation until the effec-
20 tive date of the consolidation specified in the joint consolidation
21
22

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

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1 agreement; provided, however, that no joint consolidation agreement
 2 consolidating two or more towns, two or more villages or one or more
 3 towns and villages shall take effect unless approved by a majority of
 4 electors in each such town [~~and/or village~~] at a referendum called
 5 through a resolution enacted pursuant to section seven hundred fifty-
 6 five of this title.

7 § 3. Subdivisions 1 and 3 of section 757 of the general municipal law,
 8 as added by chapter 74 of the laws of 2009, are amended to read as
 9 follows:

10 1. The electors of two or more local government entities may commence
 11 a consolidation proceeding by filing an original petition, containing
 12 not less than the number of signatures provided for in subdivision two
 13 of this section and in the form provided for in subdivision three of
 14 this section, with the clerk of the town in which the entities or the
 15 greater portion of their territory are located[, ~~except that if one or~~
 16 ~~more of the entities to be consolidated is a village the original peti-~~
 17 ~~tion of electors from the village shall be filed with the clerk of the~~
 18 ~~village~~]. Accompanying the filed petition shall be a cover sheet
 19 containing the name, address and telephone number of an individual who
 20 signed the petition and who will serve as a contact person.

21 3. The petition shall substantially comply with, and be circulated in,
 22 the following form:

23 PETITION FOR LOCAL GOVERNMENT CONSOLIDATION

24 We, the undersigned electors and legal voters of (insert type of local
 25 government entity - e.g., town[, ~~village~~] or district) of (insert name
 26 of local government entity), New York, qualified to vote at the next
 27 general or special election, respectfully petition that there be submit-
 28 ted to the electors and legal voters of (insert type and name of local
 29 government entities proposed to be consolidated), for their approval or
 30 rejection at a referendum held for that purpose, a proposal to consol-
 31 idate (insert type and name of local government entity) with (insert
 32 type and name of local government entity or entities).

33 In witness whereof, we have signed our names on the dates indicated
 34 next to our signatures.

	Date	Name - print name under signature	Home Address
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35 1. _____

36 2. _____

37 3. _____

38 (On the bottom of each page of the petition, after all of the numbered
 39 signatures, insert a signed statement of a witness who is a duly quali-
 40 fied elector of the state of New York. Such a statement shall be
 41 accepted for all purposes as the equivalent of an affidavit, and if it
 42 contains a material false statement, shall subject the person signing it
 43 to the same penalties as if he or she has been duly sworn. The form of
 44 such statement shall be substantially as follows:

45 I, (insert name of witness), state that I am a duly qualified voter of
 46 the state of New York. Each of the persons that have signed this peti-
 47 tion sheet containing (insert number) signatures have signed their names
 48 in my presence on the dates indicated above and identified themselves to
 49 be the same person who signed the sheet. I understand that this state-
 50 ment will be accepted for all purposes as the equivalent of an affida-
 51 vit, and if it contains a materially false statement, shall subject me
 52 to the penalties of perjury.

53 _____
 54 Date

55 _____
 Signature of Witness)

(In lieu of the signed statement of a witness who is a duly qualified voter of the state of New York, the following statement signed by a notary public or a commissioner of deeds shall be accepted:

On the date indicated above before me personally came each of the electors and legal voters whose signatures appear on this petition sheet containing (insert number) signatures, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the one and same person who signed the petition and that the foregoing information they provided was true.

Date

Notary Public or Commissioner of Deeds)

§ 4. Subdivision 1 of section 758 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

1. A referendum required by sections 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.

§ 5. Paragraph (a) of subdivision 2 and subdivision 5 of section 763 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

(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

5. The referendum on the question whether the elector initiated consolidation plan shall take effect shall be submitted at a special election to be held not less than sixty or more than ninety days after enactment of a resolution pursuant to subdivision four of this section, 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.

§ 6. Subdivision 4 of section 775 of the general municipal law is REPEALED.

§ 7. Section 777 of the general municipal law is REPEALED.

§ 8. Section 778 of the general municipal law, as added by chapter 74 of the laws of 2009, is amended to read as follows:

§ 778. Effective date of dissolution plan. A local government entity dissolved pursuant to a dissolution plan shall continue to be governed as before dissolution until the effective date of the dissolution specified in the dissolution plan~~[; provided, however, that no dissolution plan for a village shall take effect unless approved by a majority of electors of the village at a referendum called through a resolution enacted pursuant to section seven hundred seventy-seven of this title]~~.

§ 9. Subdivisions 1 and 3 of section 779 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended 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

1 section and in the form provided for in subdivision three of this
 2 section, with the clerk of the town in which the entity or the greater
 3 portion of its territory is located[, ~~except that if the entity is a~~
 4 ~~village the original petition of electors from the village shall be~~
 5 ~~filed with the clerk of the village~~]. Accompanying the filed petition
 6 shall be a cover sheet containing the name, address and telephone number
 7 of an individual who signed the petition and who will serve as a contact
 8 person.

9 3. The petition shall substantially comply with, and be circulated in,
 10 the following form:

11 PETITION FOR LOCAL GOVERNMENT DISSOLUTION

12 We, the undersigned, electors and legal voters of (insert type of
 13 local government entity -- e.g., town[, ~~village~~] or district) of (insert
 14 name of local government entity), New York, qualified to vote at the
 15 next general or special election, respectfully petition that there be
 16 submitted to the electors of (insert type and name of local government
 17 entity proposed to be dissolved), for their approval or rejection at a
 18 referendum held for that purpose, a proposal to dissolve and terminate
 19 (insert type and name of local government entity).

20 In witness whereof, we have signed our names on the dates indicated
 21 next to our signatures.

	Date	Name - print name under signature	Home Address
23	1. _____	_____	_____
24	2. _____	_____	_____
25	3. _____	_____	_____

26 (On the bottom of each page of the petition, after all of the numbered
 27 signatures, insert a signed statement of a witness who is a duly quali-
 28 fied elector of the state of New York. Such a statement shall be
 29 accepted for all purposes as the equivalent of an affidavit, and if it
 30 contains a material false statement, shall subject the person signing it
 31 to the same penalties as if he or she has been duly sworn. The form of
 32 such statement shall be substantially as follows:

33 I, (insert name of witness), state that I am a duly qualified voter of
 34 the state of New York. Each of the persons that have signed this peti-
 35 tion sheet containing (insert number) signatures, have signed their
 36 names in my presence on the dates indicated above and identified them-
 37 selves to be the same person who signed the sheet. I understand that
 38 this statement will be accepted for all purposes as the equivalent of an
 39 affidavit, and if it contains a materially false statement, shall
 40 subject me to the penalties of perjury.

Date	Signature of Witness)
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42 (In lieu of the signed statement of a witness who is a duly qualified
 43 voter of the state of New York, the following statement signed by a
 44 notary public or a commissioner of deeds shall be accepted:

45 On the date indicated above before me personally came each of the
 46 electors and legal voters whose signatures appear on this petition sheet
 47 containing (insert number) signatures, who signed the petition in my
 48 presence and who, being by me duly sworn, each for himself or herself,
 49 identified himself or herself as the one and same person who signed the
 50 petition and that the foregoing information they provided was true.

Date	Notary Public or Commissioner of Deeds)
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52 § 10. Subdivision 7 of section 779 of the general municipal law is
 53 REPEALED.
 54
 55

§ 11. Subdivision 4 of section 783 of the general municipal law is REPEALED.

§ 12. Paragraph (a) of subdivision 2 and subdivision 5 of section 785 of the general municipal law, as added by chapter 74 of the laws of 2009, are amended to read as follows:

(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

5. The referendum on the question whether the elector initiated dissolution plan shall take effect shall be submitted at a special election to be held not less than sixty or more than ninety days after enactment of a resolution pursuant to subdivision four of this section, 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.

§ 13. Section 789 of the general municipal law is REPEALED.

§ 14. Subdivisions 1 and 2 of section 174 of the town law, as amended by chapter 74 of the laws of 2009, are amended to read as follows:

1. (a) Whenever a fire district shall be established, within ten days thereafter the town board of the town in which such district is located or, in the case of a district including territory in two or more towns, the town boards of such towns acting jointly by a majority vote of the members of each of such town boards, shall appoint five fire district commissioners and a treasurer for such district who shall hold their respective offices until the thirty-first day of December next succeeding; provided, however, that if such district be established subsequent to the first day of October in any year, the officers so appointed by the town board shall hold office until the thirty-first day of December of the next succeeding calendar year. A person so appointed as fire district commissioner shall not serve as chief or assistant chief of the fire district fire department after taking his oath of office as such commissioner and during the time he serves as such commissioner pursuant to such appointment. The town clerk shall immediately notify the appointees of their appointment and of the time and place which he shall fix for the organization meeting of the board of fire commissioners, which meeting shall be held not later than ten days after the appointment of said officers. At such organization meeting, the treasurer shall preside until such time as a chairman of the board of fire commissioners shall be chosen, but such treasurer shall not be entitled to a vote at such meeting. The board of fire commissioners shall appoint a secretary who shall hold office until the thirty-first day of December following the first election of fire district officers.

(b) Whenever two or more fire districts shall have been consolidated, pursuant to this article, the several commissioners of each of such districts shall constitute the board of fire commissioners thereof and the several treasurers of such districts shall serve jointly as the treasurers of such consolidated district, until the thirty-first day of December next succeeding the first election of fire district commissioners and a treasurer for such consolidated district, held pursuant to subdivision two of this section. The terms of office of such fire district officers of the several districts so consolidated shall terminate on said thirty-first day of December next succeeding such election.

2. The first election of fire district officers shall be held on the second Tuesday in December next succeeding the establishment or consolidation of such fire district; provided, however, that if such district be established or consolidated at a time subsequent to the first day of October in any year, the first election of fire district officers shall be held on the second Tuesday in the month of December of the next succeeding calendar year. At the first annual election of fire district officers, five district commissioners shall be elected and a treasurer. The person receiving the greatest number of votes for the office of fire commissioner shall be elected for a term of five years; the person receiving the second highest number of votes shall be elected for a term of four years; the person receiving the third highest number of votes shall be elected for a term of three years; the person receiving the fourth highest number of votes shall be elected for a term of two years and the person receiving the fifth highest number of votes shall be elected for a term of one year. In the event that two persons shall receive the same number of votes the terms of office shall be decided by lot. At each subsequent election of fire district officers a commissioner shall be elected for the full term of five years. In the event that two or more persons receive the same number of votes thereat, a special election between the tying parties receiving the highest number of votes to fill the vacancy shall be held within forty-five days after such election. The fire district treasurer shall be elected for a term of three years. The fire district secretary shall be appointed by the fire district commissioners and shall serve for a period of one year. The fire district secretary in office at the time such election is held shall immediately notify the officers elected of their election and that an organization meeting will be held on the day specified in said notice, which shall not be later than the fifteenth day of January next ensuing. At such organization meeting, the treasurer shall preside until such time as a chairman of the board of fire commissioners shall be chosen, but such treasurer shall not be entitled to a vote at such meeting.

§ 15. Subdivision 1 of section 176 of the town law, as amended by chapter 74 of the laws of 2009, is amended to read as follows:

1. Shall elect one of their members as chairman at the first meeting of fire commissioners after such district shall have been established or consolidated and annually thereafter at the first meeting thereof following each election of fire district officers. Such chairman, when present, shall preside at the meetings of the board of fire commissioners. In the absence of the chairman the other members may designate one of their members to act as temporary chairman.

§ 16. Section 189-e of the town law, as amended by chapter 74 of the laws of 2009, is amended to read as follows:

§ 189-e. Management of affairs of joint fire districts. Subject to the restrictions hereinafter established, the property and affairs of joint fire districts shall be under the management and control and in charge of a board of not less than three and not more than seven commissioners, appointed by the town board of the town or the town boards of the towns and the board of trustees of the village or the boards of trustees of the villages in joint session as hereinafter provided, or elected as provided in article eleven of this chapter, as may be determined by resolution adopted at the meeting for the establishment of the district in the same manner as the resolution for the establishment of the district is adopted[; or as may be determined by a joint consolidation agreement or elector initiated consolidation plan in accordance with

~~article seventeen A of the general municipal law~~]. In case it is determined that the commissioners shall be selected in the manner provided by article eleven of this chapter, the appointments as provided for in subdivision one of section one hundred seventy-four of this chapter shall be made by the town board, or, if the district includes territory in more than one town, by the town board of all of the towns at a joint session held at one location within the district and thereafter elections shall be held as provided in article eleven of this chapter except that the terms of the commissioners shall be as hereinafter provided. They shall be residents of such district and in case selection is made as provided in article eleven of this chapter there shall be no other residential requirement, but otherwise if there are an even number of commissioners not more than half at any time shall be residents of such village or villages and if there are an odd number, the number that are residents of such village or villages shall not exceed the number that are residents of such town or towns by more than one. First appointments hereunder shall be made in the following manner: If there be three commissioners, the term of one shall expire one year, of another two years and of the other three years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of three years from the date of the expiration of the term of his predecessor. If there be four commissioners, the term of one shall expire one year, of another two years, of another three years, and of the other four years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of four years from the date of the expiration of the term of his predecessor. If there be five commissioners, the term of one shall expire one year, of another two years, of another three years, of another four years, and of the other five years from the then next ensuing thirty-first day of December, and thereafter one shall be appointed annually for a term of five years from the date of the expiration of a term of his predecessor. If there be six commissioners, the term of one shall expire one year, of another two years, of another three years, of another four years, and of the remaining two, five years from the then next ensuing thirty-first day of December, and thereafter appointments shall be made for a term of five years from the date of the expiration of the term of each commissioner. If there be seven commissioners, the term of one shall expire one year, of another two years, of another three years, and of two of the others four years, and of the remaining two, five years from the then next ensuing thirty-first day of December, and thereafter appointments shall be made for a term of five years from the date of the expiration of the term of each commissioner. Such board of commissioners may employ necessary labor and assistants, at a compensation approved by such boards in joint session. Such commissioners shall receive no compensation for their services, but they and their employees shall be allowed and paid their necessary expenses, payable as expenses of the district.

§ 17. Subdivision 2-a of section 2-254 of the village law, as amended by chapter 74 of the laws of 2009, is amended to read as follows:

2-a. If the limits of a village incorporated prior to the first day of April, nineteen hundred sixty-five are coterminous with the limits of, or wholly include the territory of, a district, the board of trustees of the village, by local law ~~[or pursuant to the provisions of article seventeen A of the general municipal law]~~, may abolish any such district. In addition to any other notice required in connection with the adoption of such local law generally, thirty days' written notice of

1 the hearing to be held in connection with such local law shall be given
2 to the governing body of any such district and to the town clerk. A
3 certified copy of any such local law shall be served upon or mailed to
4 such governing body and clerk within five days following the adoption
5 thereof. Except as otherwise provided in this section, the powers and
6 duties of the governing body of a district so abolished and of all the
7 officers of the district in connection therewith shall cease and deter-
8 mine upon the effective date of such local law and any board of commis-
9 sioners, any office of commissioner and any other office of any such
10 district shall also cease to exist at such time. No such local law shall
11 become effective except on the last day of a fiscal year of the town or
12 district, as the case may be.

13 § 18. Paragraph 21-a of section 2.00 of the local finance law, as
14 amended by chapter 74 of the laws of 2009, is amended to read as
15 follows:

16 21-a. The term "full valuation", when used in relation to real proper-
17 ty subject to taxation by a fire district, shall mean the valuation
18 which is derived by dividing the assessed valuation of the real property
19 concerned, as shown by the last completed assessment roll for the fire
20 district, by the town equalization rate established by the authorized
21 state officer or agency for such roll. Where, in the case of a newly-
22 created fire district, there is no completed assessment roll for such
23 fire district, full valuation shall be determined from the last
24 completed assessment roll upon which the real property included within
25 the district was assessed for town purposes prior to such creation.
26 Where, after the boundaries of a fire district shall have been changed
27 so that real property subject to taxation for fire district purposes
28 shall have been thereby added to or subtracted from the area of the fire
29 district, there is no completed assessment roll for the fire district as
30 so changed, full valuation shall be determined from the last completed
31 assessment roll upon which the real property included in the fire
32 district after such change was assessed prior to such change for town or
33 fire district purposes, as the case may be. For the purpose of contract-
34 ing indebtedness or for the purpose of preparing debt statements, the
35 assessment rolls referred to in this ~~[subdivision]~~ paragraph shall mean
36 such assessment rolls as completed, verified and filed by the assessors.
37 Where two or more fire districts consolidate to form one fire district
38 pursuant to section one hundred seventy-two of the town law, the consol-
39 idated fire district, for the purpose of this ~~[subdivision]~~ paragraph,
40 shall not be deemed a newly-created fire district, but shall be deemed
41 an existing fire district and its full valuation shall be determined
42 accordingly.

43 § 19. Notwithstanding the provisions of article 5 of the general
44 construction law, the provisions of sections 172, 172-b, 172-d, 185 and
45 189-c of the town law and sections 18-1806, 18-1808, 18-1810, 18-1812,
46 18-1814, 18-1816 and 18-1818 and article 19 of the village law shall be
47 revived and be read as such provisions existed in law on the date imme-
48 diately preceding the effective date of chapter 74 of the laws of 2009.

49 § 20. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on the same date and in the same
51 manner as chapter 74 of the laws of 2009, as amended, took effect.