STATE OF NEW YORK

5943

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the establishment of school election wards in union free school districts and central school districts

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

Section 1. Section 1702 of the education law is amended by adding a new subdivision 4 to read as follows:

4. a. Notwithstanding any other provision of law to the contrary, a board of education of a union free school district may, by resolution and subject to a mandatory referendum, establish school election wards for purposes of electing individual trustees. There shall be at least three, but no more than nine, school election wards within a school district. One trustee shall be chosen from each ward by the qualified voters therein. Within such resolution, a board of education may require that a trustee elected to represent a ward shall be a resident of such ward. Such resolution shall also provide for the signature requirements for nominating petitions consistent with the applicable provisions of this chapter.

b. (i) A resolution by the board of education, which shall be passed no less than one hundred eighty days prior to a related referendum being placed before the qualified voters of the school district during the annual meeting and election, shall include an assessment and finding, which shall take into account any historic disenfranchisement or discrimination against any group of individuals within the school district based upon race, gender, ethnicity, religion, socio-economic status, or sexual orientation, including that no disenfranchisement or discrimination would result from the adoption of the proposed resolution. The board of education shall conduct no fewer than three public hearings on such resolution.

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

LBD05560-01-9

(ii) Such public hearings shall be conducted not less than thirty nor more than ninety days prior to a vote on the resolution by a majority of the qualified voters of the district. The district clerk shall give notice of the public hearing by publishing a notice five times within fifteen days preceding the hearing, on the district's website and in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation within such district. But if no newspaper shall then have general circulation therein, said notice shall be posted in at least twenty of the most public places in said district fifteen days before the time of the first hearing.

(iii) Following such public hearings, a proposition for approval of such resolution and the boundaries of proposed school election wards by a majority of the qualified voters of such district shall be submitted at the next succeeding annual meeting and election. The district clerk shall give notice of such proposition by publishing notice prior to the election, in the same manner and publication as the public hearings, set forth in this section, specifying the time when and place or places where such election will be held, the hours during which the polls will remain open for the purpose of receiving ballots, and setting forth in full the language of the proposition to be approved at such election. In any event, such election shall be held in at least one location within each of the proposed school election wards and the hours of the election shall commence no later than six o'clock in the morning and shall end no earlier than nine o'clock in the evening.

(iv) At least fifteen days prior to conducting public hearings, the board of education shall define and publish, by resolution, boundaries of each of the proposed school election wards. Should such map be altered as a result of the public hearings, the amended map shall be published pursuant to this paragraph no later than fifteen days before the election. Such wards shall be contiguous and each ward shall contain as nearly as possible the same number of inhabitants. Each ward shall also conform as closely as possible with the attendance zone of the school district, conform as closely as possible with geographic and other physical boundaries, and retain contiguous communities of interest.

(v) A map of each ward and the boundaries thereof shall be created with the original filed with the district clerk within ten days of the resolution and copies thereof filed in the board of elections of the county. Upon each issuance of a federal decennial census, the board of education shall either: (1) make a written finding that, upon examination of the decennial census, the current school election wards contain nearly as possible the same number of inhabitants and that no discrimination or disenfranchisement would result if the wards remained as established; or (2) the school election wards shall be redefined by resolution of the board of education, after a public hearing thereon, and approval by the qualified voters of the school district. If the qualified voters of the school district shall not approve of the resolution, the board of education shall submit a second resolution for approval by the qualified voters of the school district, after a public hearing thereon, within ninety days. If the qualified voters of the school district shall not approve of such resolution for a second time, the board of education shall continue the membership and terms of the current board until the next annual meeting and election at which time the terms of all current trustees shall terminate. At the next annual meeting and election, trustees shall be elected by a vote of the quali-

fied voters of the school district pursuant to article forty-three of this chapter.

(vi) After a school election ward system shall have been established, the term of every existing trustee shall terminate on the thirtieth day of June next succeeding the first annual meeting and election following voter approval of the referendum, at which time the terms for each elected school ward trustee shall commence.

c. The term of office of each trustee from a school election ward shall be three, four, or five years, to be determined at the discretion of the board of education by resolution prior to the referendum; provided however that the resolution shall also designate that in the first annual meeting and election after the adoption of a school election ward system, the initial terms shall be divided into terms of three, four, or five years so that as nearly as possible an equal number of trustees shall be elected each year. In each election cycle thereafter, the terms of office shall be uniform. In each school election ward, the candidate receiving a plurality of votes in each school election ward shall be declared elected to that position.

d. Whenever a vacancy shall occur or exist in the office of a ward trustee of a board of education, such vacancy shall be filled pursuant to this article and part one of article forty-three of this chapter.

e. Except as provided in this subdivision, all provisions of this article, article forty-one, and article forty-three of this chapter or of any other general law relating to or affecting the election of trustees in a union free school district shall apply to school election wards organized pursuant to this subdivision and to the election of trustees by the qualified voters of a school district as established pursuant to paragraph f and subparagraph (iv) of paragraph b of this subdivision.

f. A board of education of a union free school district which has established school election wards pursuant to this subdivision may, by resolution and subject to a mandatory referendum, abolish the school election ward system and return to election of trustees by a vote of the qualified voters of the school district. Adoption, assessment, public hearing and notice, and voting requirements of such resolution and referendum shall comply with the provisions of subparagraphs (i), (ii), and (iii) of paragraph b of this subdivision.

g. For the purpose of this subdivision, "contiguous community of interest" means a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.

§ 2. Section 1804 of the education law is amended by adding a new subdivision 13 to read as follows:

13. a. Notwithstanding any other provision of law to the contrary, a board of education of a central school district may, by resolution and subject to a mandatory referendum, establish school election wards for purposes of electing individual school board members. There shall be five, seven or nine school election wards within a school district. One member shall be chosen from each ward by the qualified voters therein. Within such resolution, a board of education may require that a member elected to represent a ward shall be a resident of such ward. Such resolution shall also provide for the signature requirements for nominating petitions consistent with the applicable provisions of this chapter.

b. (i) A resolution by the board of education, which shall be passed no less than one hundred eighty days prior to a related referendum being

placed before the qualified voters of the school district during the annual meeting and election, shall include an assessment and finding, which shall take into account any historic disenfranchisement or discrimination against any group of individuals within the school district based upon race, gender, ethnicity, religion, socio-economic status, or sexual orientation, including that no disenfranchisement or discrimination would result from the adoption of the proposed resolution. The board of education shall conduct no fewer than three public hearings on such resolution.

(ii) Such public hearings shall be conducted not less than thirty nor more than ninety days prior to a vote on the resolution by a majority of the qualified voters of the district. The public hearings shall be held at a school district building or other appropriate building, each within a different proposed school election ward. If there is no school district building or other appropriate building within three separate proposed school election wards, a meeting shall be held at the school building or other appropriate building closest in proximity to the proposed school election ward or wards containing no school district buildings or other appropriate buildings. The district clerk shall give notice of the public hearing by publishing a notice five times within fifteen days preceding the hearings, on the district's website and in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation within such district. But if no newspaper shall then have general circulation therein, said notice shall be posted in at least twenty of the most public places in said district fifteen days before the time of the first hearing.

(iii) Following such public hearings, a proposition for approval of such resolution and the boundaries of proposed school election wards by a majority of the qualified voters of such district shall be submitted at the next succeeding annual meeting and election. The district clerk shall give notice of such proposition by publishing notice prior to the election, in the same manner and publication as the public hearing, set forth in this section, specifying the time when and place or places where such election will be held, the hours during which the polls will remain open for the purpose of receiving ballots, and setting forth in full the language of the proposition to be approved at such election. In any event, such election shall be held in at least one location within each of the proposed school election wards and the hours of the election shall commence no later than six o'clock in the morning and shall end no earlier than nine o'clock in the evening.

(iv) At least fifteen days prior to conducting public hearings, the board of education shall define and publish, by resolution, boundaries of each of the school election wards. Should such map be altered as a result of the public hearings, the amended map shall be published pursuant to this paragraph no later than fifteen days before the election. Such wards shall be contiguous and each ward shall contain as nearly as possible the same number of inhabitants. Each ward shall also conform as closely as possible with the attendance zone of the school district, conform as closely as possible with geographic and other physical boundaries, and retain contiguous communities of interest.

(v) A map of each ward and the boundaries thereof shall be created with the original filed with the district clerk within ten days of the resolution and copies thereof filed in the board of elections of the county. Upon each issuance of a federal decennial census, the board of education shall either: (1) make a written finding that, upon examination of the decennial census, the current school election wards contain

nearly as possible the same number of inhabitants and that no discrimination or disenfranchisement would result if the wards remained as established; or (2) the school election wards shall be redefined by resolution of the board of education, after a public hearing thereon, and approval by the qualified voters of the school district. If the qualified voters of the school district shall not approve of the resolution, the board of education shall submit a second resolution for approval by the qualified voters of the school district, after a public hearing thereon, within ninety days. If the qualified voters of the school district shall not approve of such resolution for a second time, the board of education shall continue the membership and terms of the current board until the next annual meeting and election at which time the terms of all current members shall terminate. At the next annual meeting and election, members shall be elected by a vote of the qualified voters of the school district pursuant to article forty-three of this chapter.

(vi) After a school election ward system shall have been established, the term of every existing member shall terminate on the thirtieth day of June next succeeding the first annual meeting and election following voter approval of the referendum, at which time the terms for each elected school ward member shall commence.

c. The term of office of each school board member from a school election ward shall be three, four, or five years, to be determined at the discretion of the board of education by resolution prior to the referendum; provided however that the resolution shall also designate that in the first annual meeting and election after the adoption of a school election ward system, the initial terms shall be divided into terms of three, four, or five years so that as nearly as possible an equal number of trustees shall be elected each year. In each election cycle thereafter, the terms of office shall be uniform. In each election ward, the candidate receiving a plurality of votes in each election ward shall be declared elected to that position.

d. Whenever a vacancy shall occur or exist in the office of a member of a board of education, such vacancy shall be filled pursuant to this article and part one of article forty-three of this chapter.

e. Except as provided in this subdivision, all provisions of this article, article forty-one, and article forty-three of this chapter or of any other general law relating to or affecting the election of school board members in a central school district shall apply to school election wards organized pursuant to this subdivision and to the election of members by the qualified voters of a school district as established pursuant to paragraph f and subparagraph (iv) of paragraph b of this subdivision.

f. A board of education of a central school district which has established school election wards pursuant to this subdivision may, by resolution and subject to a mandatory referendum, abolish the school election ward system and return to election of trustees by a vote of the qualified voters of the school district. Adoption, assessment, public hearing and notice, and voting requirements of such resolution and referendum shall comply with the provisions of subparagraphs (i), (ii), and (iii) of paragraph b of this subdivision.

g. For the purpose of this subdivision, "contiguous community of interest" means a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.

§ 3. This act shall take effect immediately.