STATE OF NEW YORK

7997

2019-2020 Regular Sessions

IN ASSEMBLY

May 30, 2019

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

AN ACT to amend the village law, in relation to the requirements for village incorporation

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

Section 1. Paragraph b of subdivision 1 of section 2-202 of the village law is amended by adding two new subparagraphs 7 and 8 to read as follows:

(7) An allegation that such proposed incorporation is in the overall public interest of each of the following: (i) the territory petitioning to be incorporated, (ii) any remaining area of the town or towns in which such territory is located, and (iii) any school district, fire district, fire protection district, or town improvement district located wholly or partly within such territory.

(8) An allegation that such proposed incorporation is consistent with and would not substantially impair the achievement of the goals and objectives set forth in the adopted comprehensive or master plan enacted by the town or towns located within the territory pursuant to section two hundred seventy-two-a of the town law.

§ 2. Section 2-204 of the village law, as amended by section 25 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

§ 2-204 Notice of hearing. Within twenty days after the filing of such petition or copies thereof, each supervisor with whom same were filed shall cause to be posted in five public places in that part of such territory located in his **or her** town**, and also to be posted in at least five public places in the remaining territory of such town, including other incorporated villages also located in such town,** and also to be published at least twice in the newspaper or newspapers designated pursuant to subdivision eleven of section sixty-four of the town law, a joint notice of all such supervisors: that a petition for the incorpo-

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

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ration of the village of (naming it) has been received; that at a place in such territory and on a day, not less than twenty nor more than thirty days after the date of the posting and first publication of such notice, which date and place shall be specified therein, a hearing will be had upon such petition; that such petition will be available for public inspection in the office of each town clerk until the date of such hearing; that the purpose of the hearing is to consider the legal sufficiency of the petition; that objections to the legal sufficiency of the petition must be in writing and signed by one or more of the residents of such town; and that any group of persons having one or more objections in common may make designation in writing and signed by them of at least one but no more than three persons giving the full names and addresses on whom and at which addresses all papers required to be served in connection with the proceeding for incorporation shall be served. A majority of such designees must reside in such town or towns. In the absence of any other suitable place, such hearing shall be held in a school building, if any, located in such territory. If such territory is located in more than one town the hearing shall be noticed and publicized as a joint hearing of all such towns. For the purposes of this section, in the event that the town maintains a website, one of the posting requirements required by this section may be fulfilled by posting such information on the town's website.

§ 3. Paragraph g of subdivision 1 of section 2-206 of the village law is amended to read as follows:

g. **That such petition does not contain the required allegations as set forth in subparagraphs seven and eight of paragraph b of subdivision one of section 2-202 of this article, or if the allegations are included in such petition, that such allegations are not supported by available evidence; or**

h. That the petition in any other specified respect does not conform to the requirements of this article.

§ 4. Section 2-208 of the village law is amended to read as follows:

§ 2-208 Decision as to legal sufficiency of petition. 1. Within ten days after such hearing is concluded the supervisor or supervisors jointly shall determine whether the petition complies with the requirements of this article and jointly shall make and sign a decision accordingly. If such supervisors cannot agree, the decision shall be deemed to be adverse to the petition. If the decision be adverse to the petition, the decision shall contain a brief statement of the reasons on which the adverse decision is based or the reasons on which the supervisor or supervisors deciding adversely to the petition were unable to join in a unanimous decision sustaining the petition. **Provided, however, if the adverse decision is predicated on an 'overall interest' determination pursuant to subparagraph seven of paragraph b of subdivision one of section 2-202 of this article, the decision must contain a detailed explanation that includes, but is not limited to, how such incorporation would substantially impair such town's comprehensive or master plan, established pursuant to section two hundred seventy-two-a of the town law, or enacted zoning laws established by such town or towns located within the territory.**

2. The original of the decision, copies of the notice of the hearing together with affidavits of posting and publishing same, the written objections and the minutes of proceedings taken on the hearing including signed testimony shall be filed by such supervisor or supervisors within fifteen days after the hearing is concluded, with the town clerk of the same town in which the original copy of the petition was filed. Dupli-

cate copies of the said papers shall be filed with the town clerks of all other towns in which any part of such territory is located.

3. If no proceeding be instituted to review such decision within thirty days after such filing of the original copy thereof, the decision shall be final and conclusive. In the event that the decision is adverse to the petition, a new proceeding for incorporation may be commenced immediately**; provided, however, in the event an adverse decision is based on an 'overall interest' determination pursuant to subparagraph seven of paragraph b of subdivision one of section 2-202 of this article, the decision shall not be final and conclusive until ratified by residents qualified to vote for town offices of a town in which all or part of such territory of the proposed village is located consistent with subdivision two of section 2-212 of this article**.

§ 5. Section 2-212 of the village law is amended by adding a new subdivision 2 to read as follows:

2. A determination pursuant to subparagraph seven of paragraph b of subdivision one of section 2-202 of this article shall be submitted to the residents qualified to vote for town offices of a town in which all or part of such territory of the proposed village is located at either the following town-wide election, or general election, whichever is sooner. In the event no town-wide or general election is scheduled to take place within one hundred twenty days from the date of the adverse decision, the town shall schedule an election to decide the incorporation of the proposed village within one hundred twenty days from the date of the adverse decision.

§ 6. Section 2-214 of the village law, as amended by section 26 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

§ 2-214 Notice of election. Within ten days after the right to an election is complete the town clerk of each town in which any portion of such territory is located shall cause to be posted in five public places in that part of such territory located in such town**, and for elections held pursuant to subdivision two of section 2-212 of this article, also posted in at least five public places in the remaining territory of such town, including any other incorporated villages located in such town,** and also to be published at least twice in the newspaper or newspapers designated pursuant to subdivision eleven of section sixty-four of the town law, a joint notice by the clerks of all such towns that at a convenient place in such territory, between the hours of [~~**twelve o'clock noon**~~] **six o'clock in the morning** and nine o'clock in the evening and on a day not less than twenty nor more than thirty days after the date of the posting and first publication, which date and place **or places** shall be specified therein, an election will be held to determine whether the proposed village of (naming it) shall be incorporated. **There shall be at least one polling location for each ten thousand qualified voters.** Such election shall not be held on a day of a town election or of a general election in a town in which any part of such territory is located**, unless such election is held pursuant to subdivision two of section 2-212 of this article**. For the purposes of this section, in the event that the town maintains a website, one of the posting requirements required by this section may be fulfilled by posting such information on the town's website.

§ 7. Section 2-216 of the village law is amended to read as follows:

§ 2-216 Qualification of voters. Each resident in such territory qualified to vote for town officers may vote at such election**; provided, however, that for elections held pursuant to subdivision two of section 2-212 of this article, all residents qualified to vote for town offices**

in a town in which all or part of such territory of the proposed village is located may vote.

§ 8. Subdivisions 1 and 3 of section 2-218 of the village law, subdivision 3 as amended by section 27 of part X of chapter 62 of the laws of 2003, are amended to read as follows:

1. Preparation. It shall be the duty of the clerk of each town in which a portion of such [~~teritory~~] **territory** is located to make and file in his **or her** office, at least ten days before such election an accurate list of voters, alphabetically arranged, who are qualified to vote at such election. Such list shall be copied from the registration poll records for the last preceding general election, and shall be modified in accordance with whatever information the town clerk may have or receive from the board of elections.

3. Notice of availability of list for inspection and additions. Within ten days after the right to an election is complete the town clerk of each town in which any portion of such territory is located shall cause to be posted in five public places in that part of such territory located in such town**, and for elections held pursuant to subdivision two of section 2-212 of this article, also be posted in at least five public places in the remaining territory of such town, including other incorporated villages also located in such town,** and also to be published at least twice in the newspaper or newspapers designated pursuant to subdivision eleven of section sixty-four of the town law, a notice: that a registration list of voters qualified to vote at such election will be available for inspection in his **or her** office between the hours of twelve o'clock noon and nine o'clock in the evening on a day specified therein which day shall not be on a Sunday and shall be at least three days prior to such election; that at said time and place said list will be available for inspection by the public; and also that at said time and place persons claiming to be qualified to vote at such election whose names are not on such list may, upon presentation of proper proofs, have their names added thereto. For the purposes of this section, in the event that the town maintains a website, one of the posting requirements required by this subdivision may be fulfilled by posting such information on the town's website.

§ 9. Section 2-226 of the village law is amended to read as follows:

§ 2-226 Notice of proceeding for review of election. A person instituting a proceeding under section 2-224 of this article shall serve a copy of the verified petition on which same is to be heard on each town clerk with whom the original or a copy of the certificate of election was filed and also upon each person designated in the petition for incorporation, or designated in written objections to said petition, to receive service of papers in connection with the proceeding for incorporation. In addition the person instituting such proceedings shall cause copies of such petition to be posted in five conspicuous places in such territory**, and for elections held pursuant to subdivision two of section 2-212 of this article, also be posted in at least five conspicuous public places in the remaining territory of such town, including other incorporated villages also located in such town**.

§ 10. This act shall take effect immediately and shall apply to all petitions to form a new village for which a decision as to legal sufficiency has not yet been made. A petition to form a new village that has been submitted prior to the effective date of this act shall be amended by the filers of said petition to include the required allegations as set forth in subparagraphs 7 and 8 of paragraph b of subdivision 1 of section 2-202 of the village law, as added by section one of this act,

prior to the review of the legal sufficiency of the petition by the town supervisor or supervisors of the town or towns in which the proposed village is located.