STATE OF NEW YORK

4436

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

AN ACT to amend the village law, in relation to providing a procedure for village incorporation in a suburban town

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

Section 1. The village law is amended by adding a new article 2-A to read as follows:

ARTICLE 2-A
INCORPORATION IN SUBURBAN TOWNS

Section 2-260 Applicability.
2-262 Population and area requirements.
2-264 Community impact statement.
2-266 Hearing on the community impact statement.
2-268 Canvass of election.

§ 2-260 Applicability. 1. Notwithstanding article two of this chapter, a town that adopts or has adopted the provisions of article three-A of the town law may by resolution of its town board adopt the provisions of this article for the incorporation of a new village.

2. Except as set forth in this article, the provisions of article two of this chapter shall be applicable.

3. In any town where the town board has adopted this article, a new village may be incorporated only after:

a. it is determined that there is a right to election pursuant to section 2-212 of this chapter; and

b. the town board has held a hearing on the community impact statement and scheduled a referendum pursuant to section 2-266 of this article; and

c. the question of incorporation has been approved by voters in a referendum pursuant to section 2-268 of this article.

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

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4. Notwithstanding the provisions of article two of this chapter, where the territory proposed for incorporation is located in more than one town and one or more towns, but not all affected towns, adopt this article, the scheduling of the referendum on the question of incorporation shall be determined by the provisions of this article and no other provisions of this article shall apply to affected towns that have not adopted the provisions of article three-A of the town law and the provisions of this article.

§ 2-262 Population and area requirements. A territory may be incorporated as a village under this article providing that:

1. the territory meets the conditions set forth in section 2-200 of this chapter; or

2. the territory to be incorporated does not include a part of a city or village and its limits are coterminous with the entire boundaries of the territory of the town outside of the incorporated villages.

§ 2-264 Community impact statement. 1. A three-part community impact statement shall be prepared and filed with the town clerk of each town in which the territory proposed for incorporation is located.

2. The community impact statement shall be written in plain language in a concise manner capable of being read and understood by the public.

3. Within thirty days after it is determined that there is a right to election pursuant to section 2-212 of this chapter, Part A of the community impact statement shall be prepared and filed on behalf of the petitioners which shall each include the information described in paragraphs a, b, c, d, e, f and g of subdivision six of this section.

4. Within sixty days after it is determined that there is a right to election pursuant to section 2-212 of this chapter, the supervisor of each affected town shall prepare and file with the supervisor's town clerk Part B of the community impact statement which shall include the information described in paragraphs h, i, j, k, l, m, n, o, p and q of subdivision six of this section.

5. Within thirty days after the completion of its hearing as set forth in section 2-266 of this article, the town board of each affected town shall prepare and file with its town clerk Part C of the community impact statement which shall include the information described in paragraphs a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p and q of subdivision six of this section and cause a copy to be displayed and readily accessible to the public as the town board deems appropriate.

6. The community impact statement shall include the following items and any other items which the filers of each part thereof deem appropriate:

a. a proposed five year operating budget for the territory to be incorporated;

b. a proposed five year capital budget for the territory to be incorporated;

c. a description of the services that would be provided by the proposed village;

d. a description of any deficiency in services provided by the town and the manner in which the incorporation would remedy the deficiency;

e. the estimated real property tax impact for a five year period on the territory to be incorporated;

f. the population, demographic, socio-economic and environmental impacts on the territory to be incorporated;

g. the impact of the anticipated land use and infrastructure needs within the territory to be incorporated;

h. a proposed five year operating budget for the area of the town remaining unincorporated;

i. a proposed five year capital budget for the area of the town remaining unincorporated;

j. a description of any change of services for the area of the town remaining unincorporated which change is resultant from the incorporation;

k. the estimated real property tax impact for a five year period on the area of the town remaining unincorporated;

l. the population, demographic, socio-economic and environmental impact on the area of the town remaining unincorporated;

m. the impact of anticipated land use and infrastructure needs within the area of the town remaining unincorporated;

n. a description of the share of any liability or indebtedness, bonded or otherwise, incurred by the town on account of projects within the territory proposed to be incorporated;

o. a description of the share of any liability or indebtedness, bonded or otherwise, incurred by any special district on account of projects within the territory proposed to be incorporated;

p. a description of the proportionate share of any liability or indebtedness bonded or otherwise, incurred by the town; and

q. a description of the proportionate share of any liability or indebtedness, bonded or otherwise, incurred by any special district.

§ 2-266 Hearing on the community impact statement. 1. Within eighty days after it is determined that there is a right to election pursuant to section 2-212 of this chapter, the town board of each town in which the territory proposed for incorporation is located shall cause a notice to be posted: (i) on the town website, (ii) in five public places in the town in the territory proposed to be incorporated, and (iii) in five public places in the territory outside of the villages in the town and outside the territory proposed to be incorporated. In addition, the town board shall cause a copy of the notice to be published at least twice in the newspaper or newspapers designated pursuant to subdivision eleven of section sixty-four of the town law.

2. The notice shall state: that a petition for the incorporation of the village of (name of village) has been received; that a community impact statement has been prepared; that at town hall or such other place in the town as the town board determines on a specified date and time, not less than twenty nor more than thirty days after the date of the posting and first publication of such notice, a hearing will be had upon the consideration of the community impact of the proposed incorporation; and, that such petition and community impact statement will be available for public inspection in the office of the town clerk until the date of such hearing.

3. The town board of each affected town shall hold a hearing on the community impact of the proposed incorporation as specified in the notice.

4. Within thirty days after the completion of its hearing, each town board:

a. shall issue a report on its findings with respect to paragraphs a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p and q of subdivision six of section 2-264 of this article and any other matters the town board deems relevant;

b. file the report with its town clerk which shall constitute Part C of the community impact statement; and

c. shall cause a copy of the complete community impact statement to be posted on the town website and to be displayed and readily accessible to the public in any ways that the town board deems appropriate.

5. Simultaneously with issuing its report, the town board of each affected town shall enact a resolution calling for a referendum on the question of incorporation to be held within thirty days.

6. Where more than one town is affected, the town boards shall cooperate, coordinate and set the same date for the referendum on the question of incorporation.

§ 2-268 Canvass of election. No incorporation shall take effect except upon the affirmative vote on the question of incorporation by both (i) the majority vote of those residents who qualify to vote for town officers in the territory proposed for incorporation, and (ii) the majority vote of those residents who qualify to vote for town officers in the town outside of the existing villages and outside the territory proposed for incorporation. Where more than one town is affected, the affirmative vote of residents outside of the territory proposed to be incorporated must be an affirmative vote of each town canvassed separately. If such a majority vote does not result in each separate group of voters, the referendum shall fail and incorporation shall not take effect.

§ 2. Transition; pending petitions for village incorporation. 1. If a petition for the incorporation of a village has been filed and determined legally sufficient prior to the effective date of this act in a town which adopts or has adopted the provisions of article 3-A of the town law and an election to determine the question of incorporation has not been held:

a. no election to determine the question of incorporation may been held until 45 days after the effective date of this act and, if the town board adopts the provisions of article 2-A of the village law, not until after the town board has held a hearing on the community impact and scheduled a referendum pursuant to section 2-266 of the village law; and

b. such town board may adopt the provisions of article 2-A of the town law within 30 days after the effective date of this act; and

c. within thirty days after the town board adopts article 2-A of the village law, Part A of the community impact statement described in section 2-264 of the village law shall be filed with the town clerk on behalf of the petitioners; and within sixty days after the town board adopts article 2-A of the village law, the town supervisor shall file Part B of the community impact statement described in section 2-264 of the village law.

2. Except as set forth in this section, the provisions of article 2 of the village law shall be applicable to any such petition for incorporation.

§ 3. This act shall take effect immediately.