STATE OF NEW YORK

8573

IN ASSEMBLY

January 11, 2024

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

AN ACT to amend the village law and the executive law, in relation to establishing the village incorporation commission; and to amend a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, in relation to the effectiveness thereof

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

Section 1. Section 2-202 of the village law is amended by adding a new subdivision 2 to read as follows:

2. Study attached to the petition. The study to be submitted shall be a study prepared by a third-party jointly selected by the petitioner or petitioners and the supervisors of the town or towns which shall be confirmed in writing by the petitioner or petitioners and clerks of the town or towns, or a study prepared pursuant to paragraph f of subdivision two of section 2-260 of this article; and provided further, that the department of state shall post such study on its website within ten days of receiving the study from the petitioner or petitioners. Such study shall be paid for by the petitioner or petitioners except in cases where an appropriation has been provided to pay for the study.

§ 2. Paragraph c of subdivision 1 of section 2-202 of the village law is amended by adding a new subparagraph 3 to read as follows:

(3) Study of proposed village and surrounding town or towns. A study that addresses the fiscal, service, and taxation interests of the population which would constitute the residents of such territory to be incorporated as a village, as indicated in clause (a) of this subparagraph, and that provides for an impact assessment that shall evaluate the fiscal and operational effects of incorporation of the proposed village on the surrounding town or towns wherein the village would be incorporated, as indicated in clause (b) of this subparagraph. The study shall include a certification that it sets forth all the elements required by this section.

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

LBD11710-14-4

(a) Fiscal, service, and taxation assessment of proposed village. An assessment of the fiscal, service, and taxation interests of the population which would constitute the residents of such territory to be incorporated as a village, must include the following elements of the proposed village:

(i) Inventory. List the number of parcels by property classification. For each such property, list the full valuation and taxable assessed value as appearing on the most recent applicable final assessment roll.

(ii) Taxes. Provide a fiscal estimate of all taxes that could be collected for the structures and places listed on the inventory this clause requires to be developed. The town or towns' current property tax rate and assessment should be used in developing the fiscal estimate.

(iii) Revenue. Other than taxes, list all other sources of revenue expected to be generated for the area of the proposed village.

(iv) Operations. Provide an estimate of what it would cost to operate the proposed village listing expenditures required in connection with the appointment or hiring of personnel to provide the services identified pursuant to item (v) of this clause, the holding of meetings of the board of trustees, and designating an official newspaper.

(v) Services. List the municipal services currently provided within the area of the proposed village and how such services are provided, list all municipal services proposed to be provided upon incorporation of the proposed village, and how such municipal services are expected to be provided. Municipal services may include, but are not limited to: police; fire; water; sewer; enforcement of any planning, zoning, and land use regulations; and, enforcement of the New York state uniform fire prevention and building code and energy conservation construction code.

(b) Impact assessment and study of surrounding town or towns. An impact assessment that provides an evaluation of the fiscal and operational effects of incorporation of the proposed village on the surrounding town or towns wherein the village would be incorporated, must include the following elements:

(i) Revenue and expenditures. List the estimated taxes, other revenue and expenditures for the area of the town or towns outside of the proposed village.

(ii) Fiscal impact. A description of the manner and means by which the residents of the area of the town or towns outside the proposed village will continue to be furnished municipal services following the village's incorporation, an estimation of any change in the property tax rate for the area of the town or towns outside of the proposed village to continue such services. Provide such estimate with respect to the area of the town or towns outside the proposed village services only.

(iii) Economic impact. Assess the potential economic impact to the town or towns outside of the proposed village upon incorporation of such village.

(iv) Land use impact. Assess the potential impact to the town or towns outside of the proposed village from the loss of land use, planning and zoning control within the area proposed to be incorporated.

(c) Submission. The study must be submitted to the commission and filed in the manner provided by this subdivision.

§ 3. Paragraph f of subdivision 1 of section 2-202 of the village law, as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

f. Filing and deposit. (1) Filing. The original petition, the study and all exhibits and certifications required by this section shall be filed with the [~~village incorporation commission established pursuant to section 2-259 of this article~~] commission. Duplicate originals, photocopies or other similar reproductions of the original petition, the study and all exhibits and certifications required by this section shall be filed with the town clerk of each town in which any portion of such territory is located.

(2) Deposit. At the time of filing of the petition there shall be deposited with the department of state, on behalf of the commission, the sum of six thousand dollars to pay the cost of posting, publishing and serving required notices, stenographic services and services of inspectors of election in the event incorporation is not effected.

§ 4. Section 2-204 of the village law, as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

§ 2-204 Notice of hearing. [~~Within twenty days after the filing of such petition or copies thereof, the village incorporation commission established pursuant to section 2-259 of this article shall~~] 1. No later than three days after the filing of a petition, the study and all exhibits and certifications required by section 2-202 of this article or copies thereof, the commission shall direct the town clerk of each town in which any portion of such territory is located to cause to be posted in [~~five~~] six public places of the portion of the territory of each town where such proposed village is to be located [~~in the territory where such village shall be incorporated~~] 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 issued by the commission: that a petition for the incorporation of the village of (naming it) has been received; that at a place in such territory and on a day, not less than [~~twenty~~] one hundred nor more than [~~thirty~~] one hundred twenty 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, the study and all exhibits and certifications required by section 2-202 of this article, will be available for public inspection in the office of each town clerk and on the website of the department of state until the date of such hearing; that the purpose of the hearing is to consider [~~the legal sufficiency of the petition~~] whether the village incorporation petition meets all requirements of this article; 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. Within five days of receiving direction from the commission pursuant to this subdivision, the town clerk or clerks shall provide to the commission a list of the six locations where such notices are to be posted. Should the commission object to any such locations submitted by the town clerk or clerks, the commission shall, no later than seven days after receipt of such list of locations, direct the town clerk or clerks to post such notices in alternative locations designated by the commission. The postings of such notices shall be made by the town clerk or clerks no later than twenty days after the filing of such petition, the

study and all exhibits and certifications required by section 2-202 of this article or copies thereof. 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~~] that fact shall be included in the notice of hearing. 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.

2. The department of state shall post the study on the department of state's website beginning at such time as required by section 2-202 of this article at least until the procedures pursuant to section 2-234 or 2-236 of this article are satisfied, whichever occurs sooner.

§ 5. Section 2-206 of the village law, as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

§ 2-206 Proceeding on hearing. 1. The [~~village incorporation~~] commission [~~established pursuant to section 2-259 of this article~~] shall meet at the time and place specified in such notice and shall hear objections which may be presented as to the incorporation based upon any of the following grounds:

a. That a person signing such petition was not qualified therefor;

b. If it is alleged that the petition is submitted on the basis that the persons signing such petition constitute twenty per cent of the residents in such territory qualified to vote for officers of a town in which all or part of such territory is located, that such allegation is false;

c. That such territory is part of a city or village;

d. That if such territory is less than an entire town, it contains more than five square miles and the limits of such territory are not coterminous with the entire boundaries of one school, fire, fire protection, fire alarm, town special or town improvement district and the limits of such territory are not coterminous with parts of the boundaries of more than one school, fire, fire protection, fire alarm, town special or town improvement district, all of which are wholly contained within such limits and within one town;

e. That such territory does not contain a population of at least [~~two~~] one thousand five hundred regular inhabitants;

f. That the petition in any other specified respect does not conform to the requirements of this article; [~~or~~]

g. That a study [~~has not been conducted on the fiscal, service, and taxation interests of the population which would constitute the residents of such village or the population which constitutes the residents of such town in which such village would be established; or~~

~~h. That the establishment of such village is not in the fiscal, service, and taxation interests of the population which would constitute the residents of such village or the population which constitutes the residents of such town in which such village would be established.~~] as required by section 2-202 of this article has not been submitted and made available to the public for public review for at least ninety days before the hearing required by this article;

h. That the proposed village is incapable of providing services;

i. That the tax revenue collected by such proposed village would not sufficiently defray the cost of municipal services at a property tax

rate that favorably compares to the property tax rate of the town or towns; or

j. That the incorporation would increase tax burdens on those located in the town or towns within which such proposed village would be established.

2. The commission shall conduct the hearing.

3. All objections must be in writing and signed by one or more residents qualified to vote for town offices a town in which all or part of such territory of the proposed village is located. Testimony as to objections may be taken at the hearing which shall be reduced to writing and subscribed by those testifying. [~~The burden of proof shall be on the objectors.~~] All written objections and signed testimony shall clearly state the name and address of the objector.

4. The hearing may be adjourned but must be concluded within twenty days from the date fixed in the notice of hearing.

5. The town clerk and any other official or employee of each town in which any portion of such territory is located shall assist the commission in verifying the validity of the petition in connection with any objection raised pursuant to paragraph a or b of subdivision one of this section.

§ 6. Section 2-208 of the village law, as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

§ 2-208 Decision [~~as~~] to commence village [~~establishment~~] incorporation election. 1. Within ten days after such hearing is concluded the [~~village incorporation~~] commission [~~established pursuant to section 2-259 of this article~~] shall determine whether the petition complies with the requirements of this article and shall make and sign a decision as to whether a village incorporation shall proceed to election [~~pursuant to the criteria established in section 2-259 of this article~~]. The commission's decision shall be based on an evidentiary record consisting of the incorporation petition, the study and all exhibits and certifications required by section 2-202 of this article, and any objections made pursuant to section 2-206 of this article. If the members of the commission 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 members of the commission determined not to proceed to a village incorporation election.

2. The original copy 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 the commission 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 and the secretary of the state. Duplicate 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.

§ 7. Subdivisions 1 and 5 and paragraph a of subdivision 4 of section 2-210 of the village law, subdivision 1 as amended by a chapter of the

laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, are amended to read as follows:

1. The decision of the [~~village incorporation~~] commission [~~established pursuant to section 2-259 of this article~~] as to **the petition and** whether a village incorporation shall proceed to election shall be subject to judicial review in [~~the manner provided in~~] **accordance with** article seventy-eight of the civil practice law and rules. [~~Such proceeding may be brought on the ground or grounds that said decision is illegal, based on insufficient evidence, or contrary to the weight of evidence. If the court determines that additional testimony or evidence is necessary for the proper disposition of the matter it may take such evidence or testimony or appoint a referee to take such evidence or testimony as it may direct and report the same to the court with his findings of fact and conclusions of law which shall constitute a part of the proceeding upon which the determination of the court shall be made. The court may reverse or affirm on the basis of law and fact as determined by the court.~~]

a. Notice of such a proceeding **in accordance with article seventy-eight of the civil practice law and rules** shall be given to the **secretary and the** town clerk of each town in which any part of such territory is located[~~. He~~]**, each of whom** shall cause same to be filed in [~~his~~] **their** office.

5. The successful party to any such proceeding shall file a certified copy of the decision and order in the office of the clerk of each town in which any part of such territory is located **and with the secretary of state who shall give notice of the receipt of the decision and order to the commission within three days**.

§ 8. Section 2-212 of the village law is amended to read as follows:

§ 2-212 Right to election. 1. An election to determine the question of incorporation shall be held no later than [~~forty~~] **one hundred eighty** days **and no earlier than ninety days** after the first occurring of either of the following two events:

a. The expiration of thirty days from the filing of the original of a decision [~~sustaining the legal sufficiency of the petition~~] **by the commission to proceed to a village incorporation election pursuant to section 2-208 of this article** and no proceeding having been instituted to review same, or

b. The filing of a final order [~~sustaining the petition~~] **affirming the decision of the commission to proceed to a village incorporation election pursuant to section 2-208 of this article or reversing the decision of the commission not to proceed to a village incorporation election pursuant to section 2-208 of this article** after such a proceeding to review.

[~~c.~~] **2.** The procedure for conducting said election shall be pursuant to the election law.

§ 9. 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~~] **No later than three days after the right to an election is complete, the commission shall direct** the town clerk of each town in which any portion of such territory is located [~~shall cause to be posted~~] **to post** in [~~five~~] **six** public places in that part of such territory 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 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 shall be specified therein, an election will be held to determine whether the proposed village of (naming it) shall be incorporated. **No later than five days after receiving direction from the commission, the town clerk or clerks shall provide to the commission a list of the six locations where such notices are to be posted. Should the commission object to any such locations submitted by the town clerk or clerks, the commission shall, no later than seven business days after receipt of such list of locations, direct the town clerk or clerks to post such notices in alternative locations designated by the commission. In such instance, the postings of such notices shall be made by the town clerk or clerks no later than twenty days after the right to an election is complete.** 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. 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. **Such posting shall also be made on the secretary of state's website.**

§ 10. 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 territory is located to make and file in [~~his~~] **their** office, at least [~~ten~~] **twenty** 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~~] **six** public places in that part of such territory 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~~] **their** 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. **Prior to posting, the town clerk or clerks shall provide to the commission a list of the six locations where such notices are to be posted. Should the commission object to any such locations submitted by the town clerk or clerks, the commission shall, no later than seven days after receipt of such list of locations, direct the town clerk or clerks to post such notices in alternative locations designated by the commission. The postings of such notices shall be made by the town clerk or clerks no later than twenty days after the right to an**

election is complete. 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.

§ 11. Subdivision 4 of section 2-220 of the village law is amended to read as follows:

4. Powers and duties of inspectors. The inspectors shall execute the constitutional oath of office and file same in the office of the town clerk wherein was filed [~~the original~~] **a** copy of the petition. They shall supervise and conduct such election and in connection therewith shall possess all the powers conferred by law upon a board of inspectors of election at a town election, so far as the same are applicable.

§ 12. Section 2-236 of the village law, as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

§ 2-236 Payment of expenses incurred in proceedings for incorporation if village not incorporated. If the incorporation of the proposed village be not effected by the proceedings authorized in this article, the expenses incurred by the towns in which any part of such territory is located for payment of cost of posting, publishing and serving required notices, stenographic services and services of inspectors of election shall be paid from the fund deposited with the [~~village incorporation commission established pursuant to section 2-259 of this article~~] **department of state, on behalf of the commission**. If such fund so deposited is not sufficient to pay all of such expenses, the costs in excess of such fund shall be a general town charge. Any unexpended balance of such fund shall become a part of the general fund of the town.

§ 13. The first paragraph d of subdivision 5 of section 2-254 of the village law is relettered paragraph b.

§ 14. Section 2-259 of the village law, as added by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is renumbered 2-260 and amended to read as follows:

§ 2-260 Village incorporation commission **and general administration**.

1. a. There is hereby established within the department of state a village incorporation commission. The commission shall consist of three members appointed as follows:

(1) one member appointed by the secretary of state;

(2) one member appointed by the comptroller; and

(3) one member appointed by the attorney general.

b. Each member of the commission shall serve a term of four years. The members shall be eligible for reappointment and shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

c. A majority of the members of the commission shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action.

d. The member appointed by the secretary of state shall be chairperson of the commission, provided that in the absence of the secretary of state's appointee at any meeting of the board the appointee of the

attorney general or the comptroller, in such order, if either or both be present, shall act as chairperson.

e. No member of the commission shall be disqualified from holding any other public office, nor shall employment be forfeited by reason of the member's appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance, county or city charter.

2. The commission shall have powers and duties as provided in this subdivision. A petitioner may seek relief from the commission under paragraph f of this subdivision in the event that the petitioner or petitioners and town or towns are unable to jointly select a third-party to prepare the study required by section 2-202 of this article within thirty-days of the filing of such a request with the town clerk:

a. To accept petitions filed pursuant to this article;

b. To hold hearings as required by this article;

c. To accept and deposit with the state comptroller all such monies required to be paid by those seeking to incorporate a village pursuant to this article; [~~and~~]

d. To evaluate petitions filed pursuant to this article [~~and~~] to ensure all components required by section 2-202 of this article have been included;

e. To make decisions with regard to whether a village incorporation election shall proceed based upon the commission's judgment of the criteria established in sections 2-200 and 2-206 of this article and any other requirements established in this article.

f. To select a third-party designee from a list submitted by the petitioner or petitioners and town or towns to prepare the study required to be attached to the petition pursuant to section 2-202 of this article;

g. To direct the town clerk or clerks to post notices of hearing in alternative locations pursuant to section 2-204 of this article;

h. To direct the town clerk or clerks to post notices of election in alternative locations pursuant to section 2-214 of this article; and

i. To direct the town clerk or clerks to post notices of availability of list for inspection and additions pursuant to section 2-218 of this article.

3. Prior to issuing its decision with regard to whether a village incorporation election shall proceed, and upon receiving a complete petition seeking village incorporation, the commission shall [~~complete two studies after receiving a petition for village incorporation, which shall take the following form:~~

~~a. The first study shall consist of a feasibility assessment, which shall examine the proposed village's ability to provide services to its population in an efficient manner. The feasibility study shall also evaluate the proposed village's fiscal capacity to provide these services; and~~

~~b. The second study shall consist of an impact assessment that shall evaluate the fiscal and operational effects of incorporation on the surrounding town and the rest of the local area. These impacts shall include fiscal, service, political, environmental, and land use impacts.~~

~~c. In addition to the studies required pursuant to each petition for village incorporation, the village incorporation commission shall also produce a report on its recommendations with regard to the village incorporation process pursuant to this article. Such report shall provide the commission's analysis and recommendations on the following:~~

~~(i) The number of petitions required for a village incorporation petition;~~

~~(ii) The population required to incorporate a village;~~

~~(iii) Whether the signatures of the residents of such territory qualified to vote for town officers in the unincorporated part of such town that is not part of such territory where such village would be incorporated nor part of another village should be required in order to commence a proceeding for the incorporation of such territory as a village;~~

~~(iv) Whether the residents of such territory qualified to vote for town officers in the unincorporated part of such town that is not part of such territory where such village would be incorporated nor part of another village would be entitled to vote in village incorporation elections;~~

~~(v) Whether population density should be considered in the village incorporation process;~~

~~(vi) Whether the requirements of this article are adequate to protect the fiscal, service, and taxation interests of the residents of the proposed village and those residents of the surrounding areas; and~~

~~(vii) Any other information and recommendations the village incorporation commission deems relevant.~~

~~d. The report required pursuant to paragraph c of this subdivision shall be published on the public facing portion of the department of state's website, and the secretary of state or his or her designee shall transmit the commission's findings and recommendations to the speaker of the assembly, the temporary president of the senate, and the governor on or before two years from the effective date of this section.~~

~~4. The studies required pursuant to this section shall be paid by funds appropriated pursuant to section two hundred thirty-nine-bb of the general municipal law.~~

~~5. The commission's~~] review the study attached to such petition, as required by section 2-202 of this article, to determine whether such study conforms to the requirements of section 2-202 of this article.

4. Commission review. The commission shall determine whether:

a. the petitioner has submitted a study pursuant to section 2-202 of this article having all the elements required by this article and that such study was provided for public review on the department of state's website for at least ninety days before any public hearing on the petition;

b. the proposed village is capable of providing services to the area proposed to be incorporated;

c. the tax revenue collected by such proposed village would sufficiently defray the cost of municipal services at a property tax rate that favorably compares to the property tax rate of the town or towns; and

d. the incorporation would increase tax burdens on those located within the town or towns within which such proposed village would be established.

5. A village incorporation election shall not proceed if the commission determines based on the evidentiary record that the petition or the study or other exhibits or certifications with the petition does not meet the requirements of this article or that the proposed village would not satisfy the criteria of paragraph b, c, or d of subdivision four of this section.

6. A notice of the commission's decision with regard to whether a village incorporation shall proceed to election shall be by majority vote, and the [~~commission~~] department of state shall post a notice of [~~its~~] the commission's decision on the public-facing portion of the department of state's website. No village incorporation election shall

proceed in the event the commission rules adversely to such incorporation, except pursuant to the provisions of section 2-210 of this article.

[~~6. No village incorporation election shall proceed until January first, two thousand twenty-four.~~]

§ 15. Section 96 of the executive law is amended by adding a new subdivision 17 to read as follows:

17. For receipt of a village incorporation petition pursuant to section 2-202 of the village law, two hundred fifty dollars.

§ 16. Subdivisions 1 and 2 of section 2-200 of the village law, subdivision 1 as amended by a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761 and subdivision 2 as amended by chapter 932 of the laws of 1974, are amended to read as follows:

1. A territory containing a population of at least [~~two~~] **one** thousand **five hundred** persons who are regular inhabitants thereof, as hereinafter defined, may be incorporated as a village under this chapter provided such territory does not include a part of a city or village and further provided the limits of such territory:

a. do not contain more than five square miles; or

b. are coterminous with the entire boundaries of a school, fire, fire protection, fire alarm, town special or town improvement district; or

c. are coterminous with parts of the boundaries of more than one school, fire, fire protection, fire alarm, town special or town improvement district, all of which are wholly contained within such limits and within one town; or

d. are coterminous with the entire boundaries of a town.

2. [~~The words "regular~~] **Definitions. a. "Regular** inhabitants" as used herein and for the purpose of this article shall include all persons residing in the territory proposed to be incorporated except such persons who themselves, or who are persons under the age of eighteen years residing with persons who, maintain a residence outside such territory which is used as their address for purposes of voting.

b. "Commission" as used herein and for the purposes of this article shall mean the village incorporation commission, as established by section 2-260 of this article.

c. "Secretary" as used herein and for the purposes of this article shall mean the secretary of state.

§ 17. Section 10 of a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, is amended to read as follows:

§ 10. This act shall take effect on January 1, 2024; provided [~~however, that section three-a of this act shall take effect immediately and shall expire and be deemed repealed on the same date and in the same manner as section three of this act takes effect; and provided further, that for village incorporation petitions that have collected signatures prior to the effective date of this act, nothing in this act shall deem such petition signatures invalid; and provided further, that the provisions of this act shall apply to all existing village incorporation petitions that have collected signatures prior to January 1, 2024, except as hereinafter provided; and provided further, that for village incorporation petitions that have collected signatures prior to January 1, 2024, the commission review process established pursuant to section 2-259 of the village law, as added by section seven of this act, shall~~

~~not apply, and such village incorporation petitions shall continue to be subject to the supervisor approval process; and provided further, that for village incorporation petitions that have collected signatures prior to January 1, 2024, paragraph h of subdivision 1 of section 2-206 of the village law as added by section three of this act shall not apply~~] that any village incorporation petitions associated by having at least one common petition signature witness on either of the two petitions that were initially filed on a date in February 2017 and May 2019 respectively in a town with a population of more than ninety thousand as of the latest federal decennial census located in a county with a population of more than nine hundred thousand as of the latest federal decennial census: (a) shall not be subject to this act and shall continue to be subject to the provisions of article 2 of the village law in effect as of June 1, 2023, so long as such village incorporation processes are concluded prior to January 1, 2040; and (b) if such petitions are denied, any subsequent village incorporation petitions associated with such petitions shall also continue to be subject to the provisions of article 2 of the village law in effect as of June 1, 2023, so long as such incorporation processes associated with such petitions are complete prior to January 1, 2040. Provided further, that for any village incorporation petitions that were initially filed on a date in February 2017 and May 2019 respectively in a town with a population of more than ninety thousand as of the latest federal decennial census located in a county with a population of more than nine hundred thousand as of the latest federal decennial census, a study on the fiscal, service, and taxation interests of the population which would constitute the residents of such village and the population which constitutes the residents of such town in which such village would be established shall be prepared for such proposed village incorporation, conducted by the Center for Government Research or other qualified institution and such study shall be posted on the public-facing portion of the department of state website for ninety days prior to the commencement of any referendum for the approval of such a village pursuant to article 2 of the village law, and provided that where any subsequent village incorporation petitions associated with such petitions shall be filed, then the requirements of this section shall be deemed satisfied by the re-publication of such study, and further provided, however, that (i) such state-funded study shall be submitted for posting on the public-facing portion of the department of state website by no later than April 1, 2024; (ii) such study shall be posted on the department of state website no later than thirty days after it is submitted for posting; and (iii) the adequacy of any such state-funded Center for Government Research, or other qualified institution conducted study shall not be a basis for objecting to the village incorporation petition or the scheduling of any such referendum for approval of such village; provided further, the provisions of this act shall not apply to petitions where there is a joint notice of election specifying a date and time of the election and signed by the town clerks of each affected town pursuant to section 2-214 of the village law, dated December 22, 2023 or earlier.

§ 18. Severability. If any clause, sentence, paragraph, section or part of this act or application thereof to any municipality, person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the application of the remainder thereof to any municipalities, persons and circumstances, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof

directly involved in the controversy in which such judgment shall have been rendered, and the legislature hereby declares that it would have enacted this article without the invalid provision or application, as the case may be, had such invalidity been apparent.

§ 19. This act shall take effect immediately; provided, however sections one through sixteen of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2023 amending the village law relating to establishing the village incorporation commission as proposed in legislative bills numbers S. 7537 and A. 7761, takes effect.