STATE OF NEW YORK

9567

IN ASSEMBLY

January 14, 2026

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

AN ACT to amend the county law, in relation to establishing a procedure for the creation of new counties

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

Section 1. Legislative findings. It is hereby found by the legislature that section 2 of article 9 of the state constitution provides that the legislature shall provide for the creation and organization of local governments in the state of New York. The state has established procedures for the creation of villages, towns, and for municipal annexation. However, it has not established procedures for the creation of counties.

The legislature is committed to the establishment of local government that is more cost effective, more efficient, and more responsive to the needs and desires of those residents being served. Therefore, the legislature finds that it is in the best interests of the state of New York to establish a procedure for the creation of new counties where it is feasible and in the best interest of the governed. This legislation would create such a procedure.

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

__ARTICLE 1-A__

__CREATION OF NEW COUNTIES__

__Section 10. Population and area requirements.__
__11. Feasibility study.__
__12. Petition.__
__13. Filing petition and objections; determination.__
__14. Decision of the state comptroller.__
__15. Referendum.__
__16. Effective date; transition period.__
__17. Disposition of property.__
__18. Assumption of debt.__
__19. Miscellaneous provisions.__

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

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§ 10. Population and area requirements. 1. A territory containing a population of at least one hundred thousand inhabitants, as determined by the most recent federal census, may be established as a county under this article. Such territory shall also have an area of at least one hundred square miles.

2. Such territory shall be contiguous and all counties affected by a petition pursuant to this article shall have contiguous boundaries.

3. Such territory shall not divide the territory of any existing cities, towns or villages.

§ 11. Feasibility study. Before a petition to become a county may be filed under section twelve of this article, a feasibility study shall first be prepared. Such feasibility study shall include the following:

1. A proposed operating budget for the territory to be the proposed county;

2. A proposed capital budget for the territory to be the proposed county;

3. A proposal for the division of assets and liabilities between the affected counties;

4. The property tax impact on the proposed county and the remaining county over at least a five year period; and

5. An executive summary of such financial impact statement, including the estimated real property tax impact for the territory to be the proposed county and the remaining area of the remaining county.

§ 12. Petition. 1. A proceeding to create a new county shall commence with a petition.

2. A petition to create a new county shall be signed by a number equal to at least ten per centum of the total vote cast for governor in the territory proposed to become a county in the last gubernatorial election.

3. Only qualified electors for a general election in such territory shall be eligible to sign the petition.

4. The petition to create a new county shall contain the following information:

(a) The name of the proposed county;

(b) The county seat of the proposed county;

(c) A statement that the territory proposed to be the new county contains at least one hundred thousand inhabitants and at least one hundred square miles;

(d) A map showing the boundaries of the proposed county; and

(e) A designation of at least one but not more than three persons, giving full names and addresses, on whom and at which addresses all papers required to be served in connection with the proceeding to create the new county, shall be served.

5. The signatures to the petition shall be subscribed on a separate page or pages following the information outlined in subdivision four of this section.

6. Each signature page shall be prefaced by a statement of the petitioners' familiarity with the contents and purpose of the petition, and the boundaries of the territory to be included in the new county.

7. Following each signature, there shall be set forth, not necessarily by the signer, the signer's address, including street name and number, if any, and town.

8. The petition must also be authenticated as to all the signatures upon each separate sheet by appending at the bottom of each sheet, an affidavit of a witness as to the subscription thereof, substantially as follows: STATE OF NEW YORK

ss.: COUNTY OF ....(name of witness) being duly sworn, says: I reside at ...., in the .... of .... (fill in residence) in the state of New York; I know each of the persons whose names are subscribed to the above sheet having .... (fill in number) signatures; and each of them subscribed the same in my presence.

....

(Signature of witness.) Sworn to before me, this ..... day of ...., 20.... .... (official title of officer)

9. The state board of elections shall prepare a form of petition meeting the requirements of this section and shall make said form available to the public. Any petition which is a copy of said form shall be deemed to meet the requirements of this section relating to form.

§ 13. Filing petition and objections; determination. 1. A petition pursuant to this article shall be filed with the state board of elections.

2. Any petition filed with the state board of elections shall be presumptively valid if it is in the proper form and appears to bear the requisite number of signatures authenticated in a manner prescribed by this article.

3. Written objections to a petition pursuant to this article shall be filed with the state board of elections within three days after the filing of the petition. When an objection is filed, specifications of the grounds of the objections shall be filed within six days thereafter with such board of elections, and if specifications are not timely filed, the objection shall be null and void. An objector must be qualified to sign the petition.

4. Within twenty days of the filing of a petition pursuant to this article, the state board of elections shall render a determination as to the sufficiency of the petition. The state board of elections shall give notice of the determination forthwith by mail to the individuals designated pursuant to paragraph (e) of subdivision four of section twelve of this article, and if specified objections have been filed, the objectors shall be also notified.

5. All provisions of the election law relating to the construal of the sufficiency of petitions, not inconsistent with this article, shall apply to this section.

6. A determination of the state board of elections shall be subject to judicial review, as provided for in article seventy-eight of the civil practice law and rules, except that it must be instituted within thirty days after the filing of determination pursuant to this section. Such a proceeding may only be instituted by a person qualified to sign the petition. A proceeding under this section shall have preference over all other civil actions and proceedings.

7. The successful party to the proceeding shall file a certified copy of the decision and order with the state board of elections.

§ 14. Decision of the state comptroller. 1. Within ten days after the first occurring of either the expiration of thirty days from the filing of the original decision sustaining the legal sufficiency of the petition and no proceeding having been instituted to review same, or the filing of a final order sustaining the petition after such a proceeding to review, the state board of elections shall file a copy of the petition with the office of the state department of audit and control located in Albany for a review and decision by the state comptroller, as provided for by this section.

2. The state comptroller shall examine the proposed operating budget for the territory to be the proposed county, the proposed capital budget for the area to be the proposed county, a description of the services that would be provided by the proposed county and how such services would be delivered and the estimated property tax impact for a five year period on the territory to be the proposed county and the area of the remaining county.

3. The state comptroller shall issue a decision on the financial feasibility of the proposed county.

4. In order to make a favorable decision of financial feasibility, the state comptroller shall make the following findings:

(a) that the overall public interest shall be served by the creation of the proposed county;

(b) that the cost of the proposed county shall not be an undue burden upon the proposed county or the remaining county;

(c) that the revenue estimates and appropriations, as set forth in such financial impact statement, are adequate to deliver the services proposed; and

(d) that in all regards, such financial impact statement provides an accurate, valid and transparent presentation of information to the public.

5. Such decision shall be delivered to the state board of elections within sixty days of submission to the state comptroller. Such decision shall be available for public inspection. A copy of such decision shall also be mailed to the petitioners designated pursuant to paragraph (e) of subdivision four of section twelve of this article and all objectors to the petition, pursuant to section thirteen of this article, by regular mail within five days of receipt.

6. A determination of the state comptroller shall be subject to judicial review, as provided for in article seventy-eight of the civil practice law and rules, except that it must be instituted within thirty days after the filing of determination pursuant to this section. A proceeding under this section shall have preference over all other civil actions and proceedings.

7. Where the determination of the state comptroller is not favorable and no proceeding is instituted to review such decision, the decision shall be final and conclusive. The state board of elections shall take no further action on such petition. A new proceeding to create the proposed county shall not be commenced for at least five years.

§ 15. Referendum. 1. A referendum to determine the question of creating a new county shall be held at the next general election occurring no less than sixty days after the first occurring of either of the following two events:

(a) The expiration of thirty days from a favorable decision of the state comptroller and no proceeding having been instituted to review same; or

(b) The filing of a final order which sustains the favorable decision of the state comptroller.

2. The procedure for the referendum shall be pursuant to the election law.

3. Each resident in the territory proposed to be the new county who is a qualified elector in a general election may vote in the referendum.

4. The form of the proposition shall be as follows: "Shall the territory generally described as .... (describe territory) be established as a new county to be called .... (name of county)?"

5. If the majority of the votes cast on such referendum be in the affirmative, the referendum shall be adopted, and the new county shall be created.

6. If the majority of votes cast at such referendum shall be adverse to the creation of the new county, no county shall be created and no petition for the creation of such county from the same territory may be filed for a period of five years from the date such referendum shall have been defeated.

§ 16. Effective date; transition period. 1. When a referendum has been approved, pursuant to this article, the new county shall be deemed created and effective upon the adoption of the referendum, certified by the state board of elections, and shall have the authority to perform all acts necessary to effect a transition of authority to the new county.

2. For the purposes of exercising all governmental functions, the new county shall be deemed effective on the first day of January next succeeding the next general election at which county elective officers are elected.

3. All county elective officers pursuant to this article shall be elected at the next general election after the referendum is approved.

4. As provided by this article, the board of supervisors shall be the legislative body of the new county. Nothing in this article shall preclude the establishment of a legislative body other than a board of supervisors, pursuant to law.

5. Nothing in this article shall preclude a new county from selecting a charter or other alternative form of government as permitted by law.

6. During the transition period between the effective date of the county and the effective date for the purpose of exercising all governmental functions, the supervisors of each of the towns constituting the new county shall be empowered to act as an interim board of supervisors. Said board shall have all the rights, privileges, functions, and powers conferred on counties and municipal corporations and shall take all actions necessary to effect a transition to the new county government, including but not limited to the transfer of real property, personal property, books, records, employees, the authority to enter into agreements, including the apportionment of liabilities, to adopt a budget, hire employees, levy taxes, and borrow money. Any action by the interim board of supervisors shall be approved by a unanimous vote.

7. Any taxes levied or collected and any other charges levied by the existing county for the transition period on the territory which has become a new county shall be utilized to continue services and functions for which the existing county is still responsible and to fund the transition expenses of the new county, unless the affected counties otherwise agree.

§ 17. Disposition of property. 1. Except as may be provided in an agreement between the affected counties, as authorized by subdivision two of this section, all county owned real or personal property, and rights in real and personal property, including but not limited to streets, avenues, roads, highways, bridges, buildings, parks, open lands located in the newly created county, shall become the property of said new county.

2. At any time during the transition period defined in subdivision six of section sixteen of this article, the governing boards of the affected counties shall have the power to agree on the retention, division, or other disposition, either with or without consideration, of real and personal property and rights in real and personal property within the

affected counties. Any such agreement shall be in writing and shall be approved by the affected counties. Such agreement may provide for the execution of any deeds or instruments affecting retention, division, or other disposition of such property, either with or without consideration.

§ 18. Assumption of debt. 1. Except as may be provided in an agreement between the affected counties, as authorized by subdivision two of this section, any indebtedness, or liabilities, or interest thereon attributed to the pre-existing county, shall be a charge upon and shall be paid by each county as the same shall become due and payable, in the same proportion to the whole of any such indebtedness, liability, or interest as each affected county's tax contribution. Nothing herein shall preclude the new county from paying in full its proportion of indebtedness and liabilities. In the case of liabilities relating to employee collective bargaining agreements and retirement obligations, the new county shall not be bound by said agreements and shall only be responsible for liabilities such as accumulated vacation, sick leave, and retirement costs for those employees actually transferred to the new county. The new county shall not have responsibility for the liabilities and indebtedness for any existing special district or special fund where the new county is not part of said special district or benefitted by said special fund. A new county shall not have any other contribution for indebtedness or liabilities except as provided by this section.

2. At any time during the transition period defined in subdivision six of section fifteen of this article, the governing boards of the affected counties shall have the power to agree to the proportions, if any, of the various types of indebtedness, contract, or other liabilities, and interest thereon, if any, the affected counties will assume and agree to pay. Such proportions may be based on any equitable basis.

3. (a) The term "tax contribution" shall mean each county's contribution to the general fund of the pre-existing county based upon its contribution of sales tax, if any, and real property tax. Such proportion shall initially be based upon the findings of the feasibility study prepared pursuant to section eleven of this article. The final proportions shall be adjusted after the new county's first complete year of operation utilizing actual sales tax revenue collections for said year, and the real property tax levy for the last full year of the undivided existing county.

(b) The term "indebtedness" and "contract or other liabilities" shall not include liabilities under collective bargaining agreements, indebtedness evidenced by (i) tax anticipation notes, revenue anticipation notes, or budget notes, or (ii) evidenced by serial bonds or capital notes having a maximum maturity of less than three years which were issued or are to be issued to finance an object or purpose other than a capital improvement, or other than the acquisition of equipment for which the period of probable usefulness is provided in paragraph a of section 11.00 of the local finance law.

§ 19. Miscellaneous provisions. 1. All provisions of this chapter shall govern the operation of counties created pursuant to this article, provided however, that nothing therein shall preclude the election of alternative forms or the charter form of county government as provided by law.

2. All special acts and parts of special acts relating to the pre-existing county and in force therein on the date the new county is created and not inconsistent with this article, shall continue in full force and effect in the affected counties, as though the new county had been in

existence at the time of passage of said acts and as though the name of the new county had appeared in said acts and parts of acts, except that any charter law adopted by the state legislature shall not be applicable to the new county.

3. Employees transferred when a county is created pursuant to this article shall be transferred without further examination or qualification and shall retain their respective civil service classification and status. Any employee who at the time of such transfer has a temporary or provisional appointment shall be transferred subject to the same right of removal examination, or termination as though such transfer had not been made.

4. The creation of a new county shall not affect the boundaries of any congressional district, senate district, or assembly district.

5. Nothing herein shall be deemed to limit the authority of the legislature to create counties or other local governments pursuant to the state constitution.

6. During the transition period provided for in this article, all local laws, ordinances, rules, or regulations of the pre-existing undivided county shall remain in full force and effect. Said local laws, ordinances, rules, and regulations may be further extended by the interim board of supervisors for a period not to exceed one year after the end of said transition period.

7. During the transition period, the existing county shall continue to render to and perform all those functions and services which it rendered and performed upon the date of the filing of the petition with the state board of elections, unless otherwise agreed to by the affected counties.

§ 3. Severability. If any clause, sentence, paragraph, section, or part of this act shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, paragraph, section, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

§ 4. This act shall take effect immediately.