



Municipalities Information Memo

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LEGISLATURE SENDS “NY GOVERNMENT REORGANIZATION AND CITIZEN EMPOWERMENT ACT” TO GOVERNOR’S DESK: *NEW LEGISLATION DRAMATICALLY TRANSFORMS LAW ON CONSOLIDATION AND DISSOLUTION OF LOCAL GOVERNMENTS*

In an almost breathtaking short period of time, the Assembly and Senate, by wide margins, have passed Attorney General Andrew Cuomo’s proposed “New York Government Reorganization and Citizen Empowerment Act.” (Senate Bill 5661—Assembly Bill 8501.) Public comments by Governor Paterson and the small number of “no votes” in both legislative chambers indicate the Governor will sign the legislation into law.

The new law is dramatic in its scope and effect. It repeals, amends, or supersedes existing law on local government reorganization which is presently scattered among General Municipal, Home Rule and other laws and establishes in a single article of the General Municipal Law all inclusive procedures under which local governments may be consolidated or dissolved. While the new law does not mandate such reorganizations, it does make them easier and more likely as it lays out a clear pathway for local government bodies and, for the first time in New York law, for citizens through a petition process to pursue local government consolidation or dissolution. The introduction of the citizen initiative makes the environment unpredictable for local governments and virtually guarantees that numerous proposals will surface around the state.

It is noteworthy that the law applies to “local government entities” which include towns, villages, and districts including special improvement districts or other districts such as those providing library or fire protection services. School districts, cities, and special purpose districts created by counties are not included.

Consolidation or dissolution may be initiated by the involved governing body or bodies developing and proposing a written plan followed by publication and public hearings to secure public input. Consolidation of local government entities other than towns or villages takes effect upon the governing body or bodies giving final approval of the plan. Consolidations of towns and villages take effect only after a referendum in which the majority of those voting in each of the involved municipalities. Similarly, a village dissolution plan must be approved at a referendum by a majority of those voting.

The process may also come about through a citizen initiative which requires a petition signed by ten percent of the voters in each jurisdiction to be consolidated or dissolved or 5000 voters, whichever is less. (Where there are fewer than 500 voters, the requirement is twenty percent of registered voters.) The bill repeals all current provisions dealing with tax payer

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or property owner status as a qualification to sign such a petition or vote in a related referendum. Filing the petition triggers a required referendum within each local government entity to be consolidated or dissolved. Should the referendum pass within each affected jurisdiction, then the involved governing body or bodies are required to meet and develop a consolidation or dissolution plan, followed by publication and public hearings. Then, the governing body or bodies must approve a final version of the plan, which shall be effective as of a date specified in the approval legislation. However, citizens may require a permissive referendum within 45 days of the plan's approval. This process requires a petition signed by twenty five percent of the voters (or 15,000 voters, whichever is less) in each of the affected entities. If such a petition is filed, the implementation of the plan may not take effect until the voters in each entity approve the plan.

The proposed Act contains provisions for a citizen-initiated court proceeding where local governing bodies are unwilling or unable to carry out a citizen-initiated plan. It also contains numerous provisions on transition issues such as status of elected and appointed officials, as well as the effect on public employees, debts, liabilities, and obligations; disposition of books, records, and official documents; and generally winding down the affairs of dissolved entities.

On a final note, the Act draws upon the authority found in Art. 9, Sec. 111(1) of the New York State Constitution which gives counties authority to transfer or abolish some units of local government subject to multiple referenda requirements. The Act gives counties the tools to abolish whole units of local governments including cities, towns, and villages subject to the approval of voters in a county wide referendum.

The rapid adoption and probable signing of this bill in such short order has left many local officials with questions about the law, its potential effect, and what steps, if any, need to be taken to plan for the future this legislation will shape.

At Bond, Schoeneck & King, our Municipal, Labor and Public Finance Legal Teams have already conducted a detailed review of this new legislation and are prepared to meet or speak with you to answer questions about what it means, and how you can plan for the future it will shape.

These are challenging times, and local governments are on the front lines of meeting those challenges. Our Firm is prepared to help you.

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