

STATE OF NEW YORK

2011 Regular Session

IN ASSEMBLY

May __, 2011

Introduced by _____.

AN ACT to amend the education law in relation to the requirements for consolidating the district offices of certain school districts.

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

- 1 Section 1. Short Title. The act shall be known and may be cited as the
- 2 "Citizen Initiative Act".
- 3 Section 2. Article 37 of the education law is amended by the addition of
- 4 a new Article 37-A as follows:

ARTICLE 37-A
CONSOLIDATION OF SCHOOL DISTRICTS BY CITIZEN INITIATIVE

- 5 Title 1. Definitions (§ 1810)
- 6 2. Consolidation of school districts by citizen initiative (§§ 1811-1826)

TITLE 1
DEFINITIONS

Section 1810. Definitions.

- 7 § 1810. Definitions. As used in this article, the following terms
- 8 shall have the following meanings:
- 9 1. "Component school district" shall mean a school district that, as a
- 10 result of successful consolidation proceedings, is combined into a
- 11 consolidated school district.
- 12 2. "Consolidation" shall mean either (a) the combination of the district
- 13 offices of two or more school districts resulting in the termination of the
- 14 existence of each of the school districts to be consolidated and the creation of
- 15 a new school district which assumes jurisdiction over all of the terminated
- 16 school districts, or (b) the combination of the district offices of two or more
- 17 school districts resulting in termination of the existence of all but one of the
- 18 school districts which shall absorb the terminated school district or school
- 19 districts.
- 20 3. "Consolidated school district" shall mean a school district
- 21 resulting from the successful consolidation proceedings conducted pursuant
- 22 to this article.
- 23 4. "Contiguous" shall mean when a portion of a school district abuts
- 24 the boundary of another school district, including a school district
- 25 separated from the exact boundary of another school district by a
- 26 street, road, railroad, highway, river or other natural or artificial
- 27 stream or body of water.
- 28 5. "Elector" shall mean a registered voter of this state registered to
- 29 vote in the school district subject to consolidation proceedings conducted
- 30 pursuant to this article.

1 6. "Governing body" shall mean the trustees or school board in which
2 the general legislative, governmental and/or public powers of a school
3 district are vested and by authority of which the official business of such
4 entity is conducted.

5 7. "Initiative" shall mean the filing of a petition containing a
6 proposal for a referendum to be placed on the ballot for an election.

7 8. "Joint consolidation plan" shall mean a written document, compelled by
8 voters through submission of a valid petition, that contains terms and
9 information regarding the consolidation of two or more school districts and
10 that has been finalized and approved by the governing body or bodies of such
11 entities pursuant to this article.

12 9. "School district" shall mean a central, central high, common, or union
13 free school district created by law.

14 10. "Proposed joint consolidation plan" shall mean a written document
15 that contains terms and information regarding the consolidation of two
16 or more school districts and that has been proposed by a school district's
17 or districts' governing body, but not yet adopted by the electors in a public
18 referendum pursuant to this article.

19 18. "Referendum" shall mean a vote seeking approval by a majority of
20 electors of a school district or school districts voting on a question
21 of consolidation placed on the ballot by initiative.

Title 2

CONSOLIDATION OF SCHOOL DISTRICTS BY CITIZEN INITIATIVE

22 Section 1811. Commencing the proceeding.

23 1812. Initiative of electors seeking consolidation.

24 1813 Proposed joint consolidation plan

25 1814. Publication of proposed joint consolidation plan.

26 1815. Public hearings on proposed joint consolidation plan.

27 1816. Referendum resolution for consolidation of school districts

28 1817. Conduct of referendum.

29 1818. Canvassing of vote; moratorium on further referendum.

30 1819. Effective date of joint consolidation plan

31 1820. Court-ordered consolidation; mediation; judicial officer

32 1821. General effect of consolidation.

33 1822. Election and appointment of officials.

34 1823. Effect of transition on employees.

35 1824. Debts, liabilities and obligations.

36 1825. Effect on actions and proceedings.

37 1826. Determination of rights.

38 § 1811. Commencing the proceeding. 1. In addition to the procedures for
39 establishing, consolidating, or dissolving school districts set forth
40 in this education law, upon the initiative of electors as described in
41 this title, two or more central, central high, common, or union free
42 school districts may be consolidated into a single school district
43 if each of the school districts is contiguous to at least one of the
44 other consolidating school districts.

45 § 1812. Initiative of electors seeking consolidation. 1. The electors
46 of two or more school districts may commence a consolidation
47 proceeding by filing an original petition, containing not less than the
48 number of signatures provided for in subdivision two of this section and
49 in the form provided for in subdivision three of this section, with the
50 commissioner of education. Accompanying the filed petition shall be a
51 cover sheet containing the name, address and telephone number of an
52 individual who signed the petition and who will serve as a contact person.

53 2. The petition shall contain the signatures of at least ten percent
54 of the number of electors in each school district to be consolidated;
55 provided, however, that where a school district to be consolidated contains
56 five hundred or fewer electors, the petition shall contain the signatures
57 of at least twenty percent of the number of electors. No signature
58 on a petition is valid unless it is the original signature of an elector.

59 3. The petition shall substantially comply with, and be circulated in,

1 the following form:

2 PETITION FOR SCHOOL DISTRICT CONSOLIDATION

3 We, the undersigned electors and legal voters of (insert name of
4 school district), located in New York State, qualified to vote at the next
5 general or special election, respectfully petition that there be submitted to
6 the electors and legal voters of (insert name of each of the school
7 districts proposed to be consolidated), for their approval or
8 rejection at a referendum held for that purpose, a joint consolidation
9 plan for (insert name of school district) to be consolidated with (insert
10 name of school district or districts).

11 In witness whereof, we have signed our names on the dates indicated
12 next to our signatures.

13	Date	Name - print name under signature	Home Address
14	1. _____	_____	_____
15	2. _____	_____	_____
16	3. _____	_____	_____

17 (On the bottom of each page of the petition, after all of the numbered
18 signatures, insert a signed statement of a witness who is a duly quali-
19 fied elector of the state of New York. Such a statement shall be
20 accepted for all purposes as the equivalent of an affidavit, and if it
21 contains a material false statement, shall subject the person signing it
22 to the same penalties as if he or she has been duly sworn. The form of
23 such statement shall be substantially as follows:

24 I, (insert name of witness), state that I am a duly qualified voter of
25 the state of New York. Each of the persons that have signed this peti-
26 tion sheet containing (insert number) signatures have signed their names
27 in my presence on the dates indicated above and identified themselves to
28 be the same person who signed the sheet. I understand that this state-
29 ment will be accepted for all purposes as the equivalent of an affida-
30 vit, and if it contains a materially false statement, shall subject me
31 to the penalties of perjury.

32	_____	_____
33	Date	Signature of Witness)

34 (In lieu of the signed statement of a witness who is a duly qualified
35 voter of the state of New York, the following statement signed by a
36 notary public or a commissioner of deeds shall be accepted:

37 On the date indicated above before me personally came each of the
38 electors and legal voters whose signatures appear on this petition sheet
39 containing (insert number) signatures, who signed the petition in my
40 presence and who, being by me duly sworn, each for himself or herself,
41 identified himself or herself as the one and same person who signed the
42 petition and that the foregoing information they provided was true.

43	_____	_____
44	Date	Notary Public or Commissioner of Deeds)

45 4. An alteration or correction of information appearing on a
46 petition's signature line, other than an un-initialed signature and
47 date, shall not invalidate such signature.

48 5. In matters of form, this section shall be liberally construed, not
49 inconsistent with substantial compliance thereto and the prevention of
50 fraud.

51 6. Within twenty days of the filing of the petition seeking consolidation
52 pursuant to subdivision one of this section, the commissioner of
53 education shall make a final determination regarding the sufficiency
54 of the number of signatures on the petition and provide timely written
55 notice of such determination to the contact person named in the cover sheet
56 accompanying the petition. The contact person or any individual who signed
57 the petition may seek judicial review of such determination in a proceeding
58 pursuant to article seventy-eight of the civil practice laws and rules.

59 7. Within twenty days of the commissioner of education's determination
60 that the petitions contain not less than the number of signatures of electors
61 required in subdivision two of this section, the trustees or board of
62 education of each of the school districts to be consolidated shall adopt a joint
63 resolution agreeing to create, publish, hold public hearings, and set a date for

1 a referendum on a proposed joint consolidation plan by the electors in each of
2 the school districts to be consolidated, all in accordance with the schedule,
3 process, and voting procedure set forth in this title.

4 § 1813. Proposed joint consolidation plan. 1. Within one hundred eighty days
5 from the commissioner of education's finding of validity of the petitions, the
6 trustees or school board of each of the school districts to be consolidated shall
7 adopt a proposed joint consolidation plan for the purpose of placing such plan
8 before the electors of each of their school districts.

9 2. The proposed joint consolidation plan shall specify:

10 (a) the name of each school district to be consolidated;

11 (b) the name of the proposed consolidated school district, which
12 name shall be such as to distinguish it from the name of any other
13 school district in the state of New York (except the name of any
14 one of the entities to be consolidated);

15 (c) a statement confirming that each of the individual schools in the school
16 districts to be consolidated shall retain their school name and, if any,
17 school mascot, after the adoption by voters of any joint consolidation plan;

18 (d) the rights, duties and obligations of the proposed consolidated
19 school district;

20 (e) the territorial boundaries of the proposed consolidated school
21 district;

22 (f) the organization of the proposed school district as it concerns
23 elected and appointed officials and public employees, along with a
24 transitional plan for elections and appointments of officials;

25 (g) a fiscal estimate of taxpayer savings which may be realized
26 from consolidation;

27 (h) each school district's assets, including, but not limited to,
28 real and personal property, and the fair value thereof in current
29 money of the United States;

30 (i) each school district's liabilities and indebtedness, bonded and
31 otherwise, and the fair value thereof in current money of the United States;

32 (j) terms for the disposition of existing assets, liabilities and
33 indebtedness of each school district, either jointly, separately or in
34 certain defined proportions;

35 (k) terms for the common administration of the proposed consolidated
36 school district;

37 (l) the effective date of the proposed consolidation; and

38 (m) the time and place or places for the public hearing or hearings on
39 such proposed joint consolidation plan pursuant to section eighteen
40 fifteen of this title.

41 § 1814. Publication of proposed joint consolidation plan. No later than
42 five business days after adopting a joint consolidation plan, the trustees
43 or board of education of the school districts to be consolidated shall:

44 1. cause a copy of the proposed joint consolidation plan, along
45 with a descriptive summary thereof, to be displayed and readily accessible
46 to the public for inspection in a public place or places within each
47 school district;

48 2. cause the proposed joint consolidation plan, along with a
49 descriptive summary thereof and a reference to the public place or plac-
50 es within each school district where a copy thereof may be examined,
51 to be displayed on a website maintained by each school district or otherwise
52 on a website maintained by the village, town and/or county in which the
53 school districts are located; and

54 3. arrange to be published a descriptive summary of the proposed joint
55 consolidation plan and a reference to the public place or places
56 within the school districts where a copy thereof may be examined, at least
57 once each week for two successive weeks, in a newspaper having a general
58 circulation within each school district.

59 § 1815. Public hearings on proposed joint consolidation plan. 1.
60 The trustees or school board of each of the school districts to be
61 consolidated shall set a time and place or places for one or more public
62 hearings on the proposed joint consolidation plan. The hearing or
63 hearings shall be held no less than thirty-five days and no more than

1 sixty days after adoption of the joint consolidation plan. The hearing or
2 hearings may be held jointly or separately by the trustees or school board
3 of the school districts to be consolidated. Any interested person shall be
4 given a reasonable opportunity to be heard on any aspect of the proposed
5 consolidation.

6 2. The public hearing or hearings shall be held on notice of at least
7 ten days, but not more than twenty days, published in a newspaper or
8 newspapers having general circulation within each school district to be
9 consolidated and displayed on a website maintained by each of the school
10 districts or otherwise on a website maintained by the village, town and/or
11 county in which the school districts are located. The notice of the hearing or
12 hearings shall provide a descriptive summary of the proposed joint
13 consolidation plan and a reference to the public place or places
14 within the school districts where a copy of such plan may be examined.

15 3. After completion of the final hearing, the governing body or bodies
16 of the local government entities to be consolidated may amend the
17 proposed joint consolidation plan, provided that the amended
18 version complies with the provisions of subdivision two of section eighteen
19 thirteen of this title and is publicized pursuant to subdivision
20 four of this section, and/or approve a final version of the joint
21 consolidation plan. Any approval by the entities' governing body or
22 bodies of the final version of the joint consolidation plan must
23 occur within thirty days of such final hearing.

24 4. No later than five business days after amending the proposed joint
25 consolidation plan, the governing body or bodies of the local
26 government entities to be consolidated shall:

27 (a) cause a copy of the amended version of the proposed joint consol-
28 idation plan, along with a descriptive summary thereof, to be
29 displayed and readily accessible to the public for inspection in a
30 public place or places within each entity; and

31 (b) cause the amended version of the proposed joint consolidation
32 plan, along with a descriptive summary thereof and a reference to
33 the public place or places within each such entity where a copy thereof
34 may be examined, to be displayed on a website maintained by each school
35 district or otherwise on a website maintained by the town and/or county
36 in which the school districts are located.

37 § 1816. Referendum resolution for consolidation of school districts.

38 1. Upon final approval of the joint consolidation plan pursuant to
39 subdivision three and/or four of section eighteen fifteen of this title, the
40 governing body or bodies of the local government entities to be consolidated
41 shall enact a resolution scheduling a referendum on the joint consolidation
42 plan by the electors in each of the school districts, such referendum to take
43 place within thirty days of the joint enactment of the resolution.

44 2. The resolution scheduling the referendum on the joint consolidation
45 plan shall:

46 (a) provide (i) the name of each of the school districts proposed
47 to be consolidated, (ii) a statement fully describing the territory to
48 be included within the proposed consolidated local government entity,
49 (iii) the name of the proposed consolidated local government entity, and
50 (iv) the date for the referendum, in accordance with subdivision one of
51 section seven hundred fifty-eight of this title;

52 (b) state the substance of the question to be submitted to the elec-
53 tors; and

54 (c) set forth such other matters as may be necessary to call, provide
55 for and give notice of the referendum and to provide for the conduct
56 thereof and the canvass of the returns thereupon.

57 3. The resolution calling for a referendum on the proposed consolidation
58 shall have attached to it the final approved version of the joint
59 joint consolidation plan.

60 § 1817. Conduct of referendum. 1. A referendum required by section
61 eighteen sixteen of this title shall be placed before the electors
62 of each of the school districts to be consolidated at a special election
63 to be held within thirty days of the joint enactment of a resolution

1 calling for such referendum, provided, however, that in cases where a general
2 election falls within such period, the question may be considered during the
3 general election.

4 2. The referendum shall be held in each school district on the same day.

5 3. Notice of the referendum shall be given to the electors of each
6 school districts to be consolidated by publication in a newspaper
7 having a general circulation within the boundaries of each entity at
8 least once a week for two consecutive weeks immediately prior to the
9 referendum. The notice shall include, but not be limited to:

10 (a) a summary of the contents of the resolution and joint consolidation
11 plan;

12 (b) a statement as to where may be examined a copy of the resolution
13 and joint consolidation plan;

14 (c) the names of the school districts to be consolidated and
15 a description of their territory;

16 (d) the name of the proposed consolidated school district; along with a
17 statement that all of the component schools in each of the school districts
18 to be consolidated shall retain their name and, if any, school mascot, in the
19 event of the adoption of the joint consolidation plan by the electors in a
20 referendum.

21 (e) the time and places at which the referendum will be held; and

22 (f) such other matters as may be necessary to call, provide for and
23 give notice of the referendum and to provide for the conduct thereof and
24 the canvass of the returns thereupon.

25 4. The referendum question placed before the electors of each school
26 district to be consolidated shall be in a form reading substantially as follows:

27 "Shall the district offices of (insert type and name of school district)

28 be consolidated with the district offices of (insert type and name of school
29 district or school districts)?

30 YES _

31 NO _"

32 5. In any referendum held pursuant to this title, each school district
33 to be consolidated shall bear only the costs of holding such referendum
34 in its respective entity and shall not be required to bear the costs of
35 a referendum held in any other entity.

36 6. Any referendum held pursuant to this title shall be conducted
37 in the same manner as other local municipal elections or referendums.

38 § 1818. Canvassing of vote; moratorium on further referendum. 1. In
39 any referendum held pursuant to this title, the ballots cast shall be
40 counted, returns made and canvassed and results certified in the same
41 manner as other local municipal elections or referendums.

42 2. Consolidation shall not take effect unless a majority of the elec-
43 tors voting in each school district to be consolidated vote in favor of
44 consolidation. If in any one of the entities such a majority vote does not
45 result, the referendum shall fail and consolidation shall not take effect.

46 3. If consolidation is approved by a majority of the electors voting
47 in each school district to be consolidated, certificates of such result
48 shall be immediately filed with the education commissioner and with
49 the clerk of the county or counties in which any part of any of the school
50 districts are situated.

51 4. If the referendum shall fail, the consolidation process specified
52 by this title shall not be initiated for the same purpose within four
53 years of the date of such referendum.

54 § 1819. Effective date of joint consolidation plan. 1. School districts
55 consolidated pursuant to elector adoption of a joint consolidation plan
56 shall continue to be governed as before consolidation until the effective
57 date of the consolidation specified in such plan, which date shall be
58 no less than sixty days after elector approval of such plan by referendum.

59 § 1820. Court-ordered consolidation; mediation; judicial officer. 1. If
60 the governing body or bodies of school districts having a duty to prepare
61 and approve a proposed joint consolidation plan pursuant to section
62 eighteen thirteen of this title fail to prepare and approve such plan or are
63 otherwise unable or unwilling to accomplish and complete the consolidation
64

1 plan pursuant to the provisions of this title, then any five electors who
2 signed the petition seeking a referendum on a proposed joint consolidation
3 plan may commence a special proceeding against the entities pursuant to
4 article seventy-eight of the civil practice law and rules, in the supreme
5 court within the judicial district in which the school district or the greater
6 portion of its territory is located, to compel compliance with the provisions
7 of this article.

8 2. If the court finds that the governing body or bodies attempted in
9 good faith to prepare and approve a proposed joint consolidation plan but
10 were nevertheless unsuccessful, then the court may refer such matter to
11 mediation pursuant to law, with costs of such mediation to be borne by the
12 entities in such proportion as the court shall determine based on appropriate
13 factors including population and the good faith efforts of the respective
14 entities. If the governing body or bodies thereupon prepare and approve a
15 proposed joint consolidation plan conforming to the requirements of subdivision
16 two of section eighteen thirteen of this title, then the provisions of
17 sections eighteen thirteen, fourteen, and fifteen of this title shall apply as
18 if the governing body or bodies had proposed such plan without the benefit of
19 court-ordered mediation.

20 3. In all other cases, if the petitioners in such special proceeding
21 shall substantially prevail, then the court shall issue an injunction
22 ordering the governing body or bodies of the school districts to comply
23 with the applicable provisions of this article. If the governing body or
24 bodies shall violate the injunction, then the court shall appoint a judicial
25 hearing officer pursuant to article forty-three of the civil practice law
26 and rules to create a proposed joint consolidation plan for the school
27 districts that complies with the provisions of subdivision two of
28 section eighteen thirteen of this title.

29 4. The final determination of the judicial hearing officer shall
30 constitute final approval of the proposed consolidation plan, and such final
31 determination shall also set the date for the such plan go before the electors
32 of each of the school district in a public referendum.

33 5. In any proceeding pursuant to this section in which the petitioners
34 substantially prevail, the costs of such proceeding, including the costs
35 of any judicial hearing officer appointed pursuant to subdivision three
36 of this section, shall be borne by the school districts proportionately,
37 at the rate provided for in article twenty-two of the judiciary law and
38 regulations promulgated pursuant thereto based on appropriate factors,
39 including, but not limited to, population and the court's findings regarding
40 the good faith efforts of the respective entities.

41 § 1821. General effect of consolidation. 1. On and after the effective
42 date of a consolidation, the consolidating school districts shall be
43 treated and considered for all purposes as one school district, under
44 the name and on the terms and conditions set forth in the joint consolidation
45 plan; provided, however, that each of the individual schools located in the
46 newly consolidated school district shall retain their name and, if any, the
47 name of their school mascot.

48 2. All rights, privileges and franchises of each component school district
49 in the newly consolidated school district and all assets, real and personal
50 property, books, records, papers, seals and equipment, as well as other
51 things in action, belonging to each component school district shall be
52 deemed as transferred to and vested in the consolidated school district
53 without further act or deed.

54 3. All property, rights-of-way and other interests shall be as effec-
55 tually the property of the consolidated school district as they
56 were of the component school districts prior to their consolidation.
57 The title to real estate, either by deed or otherwise, under the
58 laws of the state of New York vested in any of the component school
59 districts shall not be deemed to revert or be in any way impaired by
60 reason of the consolidation.

61 4. The consolidated school district shall in all respects be
62 subject to all the obligations and liabilities imposed and shall possess
63 all the rights, powers, and privileges vested by law in other similar

1 entities.

2 5. Upon the effective date of the consolidation, the joint consolidation
3 plan shall be subordinate in all respects to the contract rights of all
4 holders of any securities or obligations of the school districts
5 outstanding at the effective date of the consolidation.

6 § 1822. Election and appointment of officials. New officials of the
7 consolidated school district required to be elected shall take office
8 on the first Monday of January following the election designated in the
9 joint consolidation plan. At such election, the necessary officials of
10 the consolidated school district shall be elected in accordance with the
11 terms of the education law affecting school district elections. Except
12 as otherwise specified in the joint consolidation plan all appointive
13 officials of the consolidated school district shall be appointed by the
14 individual or entity upon whom the power to appoint such officials is
15 conferred by the terms of the education law. Successors in office for such
16 elected or appointed positions shall thereafter be elected or appointed
17 at the time, in the manner and for the terms provided by the education law
18 affecting such elections and appointments.

19 § 1823. Effect of transition on employees. Except as otherwise
20 provided by law and except for those officials and employees protected
21 by tenure of office, civil service provisions or collective bargaining
22 agreement, upon the effective date of consolidation, all district
23 appointive offices and positions then existing in all school districts
24 involved in the consolidation shall be subject to the terms of
25 the joint consolidation plan. Such plan may provide for instances in which
26 there is duplication of positions and for other matters such as varying
27 length of employee contracts, different civil service regulations in the
28 component school districts and differing ranks and position classifications
29 for similar positions.

30 § 1824. Debts, liabilities and obligations. 1. All valid and lawful
31 debts and liabilities existing against a consolidated school district,
32 or which may thereafter arise or accrue against the consolidated
33 school district, which but for consolidation would be valid and
34 lawful debts or liabilities against one or more of the component
35 school districts, shall be deemed and taken to be like debts against
36 or liabilities of the consolidated school district and shall
37 accordingly be defrayed and answered to by it to the same extent, and no
38 further than, the component school districts would have been bound if
39 no consolidation had taken place.

40 2. The rights of creditors and all liens upon the property of any of
41 the component school districts of a consolidation shall be preserved
42 unimpaired. The respective component entities shall be deemed to continue
43 in existence to preserve such rights and liens, and all debts, liabilities
44 and duties of any of the component entities shall thenceforth attach to the
45 consolidated school district and be enforced against it to the same extent
46 as if such debts, liabilities and duties had been incurred or contracted by
47 the consolidated school district.

48 3. All bonds, contracts and obligations of the component school districts
49 which exist as legal obligations shall be deemed like obligations of the
50 consolidated school district, and all such obligations as are authorized
51 or required to be issued or entered into shall be issued or entered into
52 by and in the name of the consolidated school district.

53 § 1825. Effect on actions and proceedings. 1. Suits may be brought and
54 maintained against a consolidated school district in any of the courts
55 of the state in the same manner as against any other school district.

56 2. In any action or proceeding pending on the effective date of
57 consolidation to which any component school district is a party,
58 the consolidated school district may be substituted in its place
59 and the action or proceeding may be prosecuted to judgment as if
60 consolidation had not taken place.

61 § 1826. Determination of rights. If any right, title, interest or
62 claim shall arise out of any school district consolidation or by reason
63 thereof that is not determinable by reference to the provisions of this

1 article, by the joint consolidation plan, or otherwise under the laws of
2 this state, then the governing body of the consolidated school district
3 may provide therefore in a manner conforming to law.