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COUNTY OF ONONDAGA

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Is it correct that the first 50 points of the Consensus report can be accomplished without a referendum on the merger of the City and the County? If so, why are the presentations conducted in a manner that implies a referendum is necessary to enable them?

Each recommendation must be taken on a case-by-case basis. We believe most (if not all) recommendations would require a referendum on some level. For example, Municipal Home Rule Law requires a mandatory referendum on any local law which “abolishes, transfers or curtails any power of an elective officer”. As the highway superintendents of the towns are generally elected officials, any change in their powers would be subject to a mandatory referendum. Further, any new power granted to the County via a charter law, which comes at the expense of a town, village, or other unit of local government, would similarly require approval of the voters within the County and the other local government.

§ 23. Local laws subject to mandatory referendum

1. A local law subject to mandatory referendum as provided in this section or in any other state statute, shall be submitted for the approval of the electors at a general election of state or local government officers in such local government held not less than sixty days after the adoption thereof unless such local law provides for its submission for approval of the electors at a special election or unless, within thirty days after the adoption of such local law, a petition signed, authenticated and subject to certification by the clerk as provided for other petitions in section twenty-four of this chapter is filed with such clerk requesting its submission at a special election. If the local law so provides or if a valid petition is so filed requesting the submission of the local law at a special election, it shall be submitted at such a special election held in such local government not less than sixty days after the adoption of the local law, the date for which special election shall be fixed by the legislative body. In either case such local law shall become operative as prescribed therein only if approved at such election by the affirmative vote of a majority of the qualified electors of such local government voting upon the proposition.

2. Except as otherwise provided by or under authority of a state statute, a local law shall be subject to mandatory referendum if it:

a. In the case of a city, provides a new charter for such city.

b. In the case of a city, town or village, changes the membership or composition of the legislative body or increases or decreases the number of votes which any member is entitled to cast.

c. Changes the veto power of the elective chief executive officer.

d. Changes the law of succession to the office of the chief executive officer of a county elected on a county-wide basis or if there be none the chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town.

e. Abolishes an elective office, or changes the method of nominating, electing or removing an elective officer, or changes the term of an elective office, or reduces the salary of an elective officer during his term of office.

f. Abolishes, transfers or curtails any power of an elective officer.

g. Creates a new elective office.

h. In the case of a city, changes the boundaries of wards, or other districts, from which members of the county board of supervisors, chosen as such in such city to represent the city, are elected.

i. Changes a provision of law relating to public utility franchises.

j. In the case of a city, reduces the salary or compensation of a city officer or employee, increases his hours of employment or changes his working conditions if such salary, compensation, hours or conditions have been fixed by a state statute and approved by the vote of the qualified electors of the city. No provision effecting such reductions, increases or changes contained in any local law or proposed new charter shall become effective unless the definite question with respect to such reductions, increases or changes shall be submitted separately from any provisions not relating to such reductions, increases or changes and approved by the affirmative vote of a majority of the qualified electors voting thereon.

k. In the case of a city, changes a provision of law relating to the membership or terms of office of the civil service commission of the city.

§ 33. Power to adopt, amend and repeal county charters

1. Subject to restrictions in the constitution, in this article or in any other applicable law, the board of supervisors of any county as defined in section thirty-two of this article and including but not limited to a county which has heretofore adopted a charter enacted by the legislature shall have power to prepare, adopt, amend or repeal a county charter.

2. A county charter shall set forth the structure of the county government and the manner in which it is to function. Such charter may provide for the appointment of any county officers or their selection by any method of nomination and election, provided that there shall be an elective board of supervisors, the members of which shall be deemed county officers, which shall determine county policies and exercise such other functions as may be assigned to it.

3. Such a county charter shall provide for:

a. The exercise by the board of supervisors of the powers of local legislation and appropriation of the county.

b. The agencies or officers responsible for the performance of the functions, powers and duties of the county and of any agencies or officers thereof and the manner of election or appointment, terms of office, if any, and removal of such officers.

c. The equalization of real property taxes consistent with standards prescribed by the legislature.

4. Such a county charter may:

a. Assign executive or administrative functions, powers and duties to elective or appointive officers.

b. Empower an executive officer elected on a county-wide basis to veto actions of the board of supervisors, with provision for overriding of such vetoes by a specified percentage or percentages of votes of such board.

c. In accordance with subdivision (h) of section one of article nine of the constitution, provide for the transfer of one or more functions or duties of the county or of the cities, towns, villages, districts or other units of government wholly contained in such county to each other or when authorized by the legislature to the state, or for the abolition of one or more offices, departments or agencies of such units of government when all of their functions or duties are so transferred.

d. Provide for an administrative code which shall set forth the details of administration of the county government in harmony with the provisions of the county charter and may contain revisions, simplifications, consolidations, codifications and restatements of special laws, local laws, ordinances, resolutions, rules and regulations consistent with the county charter.

e. Provide for the termination of the terms of office of existing officers.

5. The board of supervisors by resolution may provide that a draft of a proposed county charter, or of an amendment or repeal thereof, shall be prepared under its supervision, the supervision of an officer or committee of the board, or by a charter commission appointed by or pursuant to such resolution. The county attorney or other legal advisor shall provide such assistance and cooperation as shall be required of him and for such purpose shall have power to

employ or retain special counsel and technical advisors and assistants within appropriations made available therefor.

6. Where a petition is filed with the clerk of the board of supervisors signed by electors of the county equal in number to at least ten per centum of the whole number of votes cast in the county for governor at the last gubernatorial election, asking that a charter commission be created by the board of supervisors and be composed and appointed as provided by the board of supervisors, and where the board of supervisors does not on its own motion create and appoint or provide for the appointment of such a charter commission within three months after such filing, the board of supervisors shall cause a proposition to be submitted to the electors of the county at the next general election occurring not less than five months after such filing, on the question of whether such a charter commission should be so established and appointed. The provisions of subdivision eight of this section shall apply to the preparation of the form of such proposition and its submission at such general election. If such proposition receives a majority of the votes cast thereon in the county at such general election, the board of supervisors within two months after such general election shall provide for the creation of such commission and its members shall be appointed within such two-month period. The provisions of subdivision five hereof, so far as applicable, shall apply to such charter commission.

7. A charter law

(a) providing a county charter, or

(b) proposing an amendment or repeal of one or more provisions thereof which would have the effect of transferring a function or duty of the county, or of a city, town, village, district or other unit of local government wholly contained in the county, shall conform to and be subject to consideration by the board of supervisors in accordance with the provisions of this chapter generally applicable to the form of and action on proposed local laws by the board of supervisors. If a county charter, or a charter law as described in this subdivision, is adopted by the board of supervisors, it shall not become operative unless and until it is approved at a general election or at a special election, held in the county by receiving a majority of the total votes cast thereon (a) in the area of the county outside of cities and (b) in the area of the cities of the county, if any, considered as one unit, and if it provides for the transfer of any function or duty to or from any village or for the abolition of any office, department, agency or unit of government of a village wholly contained in the county, it shall not take effect unless it shall also receive a majority of all the votes cast thereon in all the villages so affected considered as one unit. Such a county charter or charter law shall provide for its submission to the electors of the county at the next general election or at a special election, occurring not less than sixty days after the adoption thereof by the board of supervisors. Such a county charter or charter law may provide for the separate submission to the electors at such election of one or more variations of the provisions of such county charter. Any such variation may include, but shall not be limited to, proposed transfers of functions of local government to other units of local government or a class or classes thereof.

8. The form of each proposition submitted to the electors of a county pursuant hereto shall be prepared by the clerk of the board of supervisors with the advice of the county attorney or other principal legal advisor. They also shall prepare a brief abstract of the county charter or charter law so submitted. The form and abstract shall be transmitted to the board of elections of the county. The board of elections, at least twenty days before the election, shall send two or more

copies thereof to the clerk of each city, town and village in the county to be made a public record in his office and shall cause a sufficient number of copies to be printed and made available to the electors at the time of registration or otherwise. In addition, such board of elections shall cause a sufficient number of copies to be delivered with the other election supplies and distributed to the electors at the election. The board of elections shall cause each such proposition to be submitted to the electors of the county in the manner provided in the election law and, so far as applicable, in subdivision two of section one hundred two of the county law. Expenses incurred in connection with the submission of any proposition under this article shall be a charge against the county.

9. If two or more propositions having conflicting provisions receive the majorities required for adoption under this section at the same election, the proposition involved in each such conflict which receives the largest affirmative vote shall prevail to the extent of such conflict; but in all other respects such proposition shall be deemed adopted. Where a proposition submitted to the electors of a county under the provisions of this article receives the majority or majorities required for adoption, it shall become operative as prescribed therein, subject to any conditions prescribed therein.