

# A Change for the Better: CHANGING THE DATE OF VILLAGE ELECTIONS

BY JAMES V. BELLANO

**T**housands of taxpayer dollars can be saved and voter participation in the political process dramatically increased, all with the simple flick of an election lever. What's the catch? There is none. In fact, for any village elected official—Manager, Attorney or Clerk in New York State—these promises can materialize with relative ease.

Either by resolution of the Board of Trustees or by circulating a petition and gathering the requisite number of signatures, a referendum<sup>1</sup> can be placed on the ballot at your village's upcoming March election and both of these goals can be accomplished. The vehicle by which they can be effectuated is contained in New York State Law, and the simplicity with which they can be achieved is startling. With the exception of one statute, the entire process is set out in Article 9 of the Village Law.

## THE STATUTORY MECHANISM

Section 9-912(1) of New York Village Law empowers both the Board of Trustees and the village electorate to "cause a proposition on any of the questions set forth in the following subdivision to be submitted at a regular or special village election as such elections are defined in the election law."<sup>2</sup> The "following subdivision," subdivision (2), sets out five issues which can be submitted for referendum.<sup>3</sup> Subsection (e) of subdivision (2) authorizes the question: "whether or not the month of the general village election should be changed..." to be placed on the ballot for approval or rejection by the electorate.<sup>4</sup>

In a village whose Board of Trustees is amenable to the idea, the referendum changing the village election date to the date of the general election in November can be placed on the ballot by a simple Board resolution.<sup>5</sup> However, even if a Village Board is opposed to the change of election proposal and refuses to adopt such a resolution, the citizens, by obtaining the requisite number of signatures from the qualified electors (i.e., registered voters)

of the village, can force the Board to adopt said resolution and place the question on the ballot by petition.<sup>6</sup> In any event, the ultimate decision to change the village election date rests with the electorate and can only come about by referendum.<sup>7</sup>

The content and form of the petition mentioned above are laid out in Sections 9-900(1) and 9-902(8)<sup>8</sup> (see Table I). While the number of the signatures necessary to compel the Village Board to adopt the resolution and place such a referendum on the ballot varies with the size of the particular village, the number of the signatures needed does not exceed 200 for even the large Villages (i.e., those with a population of 5,000 or more).<sup>9</sup>

The other statute from which the authority to implement the election change comes from is New York Election Law Section 15-104.<sup>10</sup>

Section 15-104(1)(a) states that "[t]he general village election shall be held on the third Tuesday in March *except in any village which presently elects, or hereafter adopts a proposition to elect, its officers on a date other than the third Tuesday in March.*" (italics added).<sup>11</sup> Also, in addition to authorizing the election date change, Section 15-104 serves two other purposes relevant to this matter.

First, Section 15-104(1)(b) provides that, upon approval of the change of election date, administration of said elections shall thereafter be conducted by the Board of Elections.<sup>12</sup> Transforming the administrative function is only natural because the Board is already charged with conducting all city, town and village November elections. The change of administration to the Board of Elections should allow a village to save all funds (except perhaps storage fees) allocated to conduct March elections.

Second, Section 15-104(2) instructs village clerks and other officials on when the new election date takes effect, as well as how to deal with the terms of sitting elected officials which would have come up for a vote the following March.<sup>13</sup> The first November election after the change of election date will take place approxi-

mately 20 months from the adoption of the referendum. Accordingly, the terms of sitting elected officials are extended to said election date. For example, a trustee who serves a two year term and who was elected in March 1995, the year before a successful election change referendum in 1996, would not stand for reelection until November 1997.

## REASONS FOR MAKING THE CHANGE Pro

In order for any village to consider such a referendum, the reasons for changing the election date from March to November must be accompanied by a valid public policy objective.

It is irrefutable that by abolishing the March election, villages would save thousands of dollars (see Table II). While this is a valid reason for making the change, in some villages the financial aspect is probably not sufficient cause to overcome certain countervailing reasons for keeping the March election cycle (i.e., tradition, etc.).

More importantly, adoption of a proposition changing the village election date from March to November will

<sup>1</sup> The statutes in both the Village and Election Law use the following terms interchangeably when discussing the change of election process: referendum, permissive referendum, referendum on petition and proposition.

<sup>2</sup> N.Y. Village sec. 9-912(1) (Consol. 1995).

<sup>3</sup> N.Y. Village sec. 9-912(2) (Consol. 1995).

<sup>4</sup> N.Y. Village sec. 9-912(2)(e) (Consol. 1995).

<sup>5</sup> N.Y. Village sec. 9-912(1) (Consol. 1995).

<sup>6</sup> *Id.*

<sup>7</sup> *In the Matter of Etelson v. Jacaruso*, 80 Misc. 2d 685, at 687, 364 N.Y.S. 2d 103, 106 (1975 Rockland Cty.).

<sup>8</sup> N.Y. Village sec. 9-900(1) (Consol. 1995); N.Y. Village sec. 9-902(8) (Consol. 1995).

<sup>9</sup> N.Y. Village sec. 9-912(2) (Consol. 1995).

<sup>10</sup> N.Y. Elec. sec. 15-104 (Consol. 1995).

<sup>11</sup> N.Y. Elec. sec. 15-104(1)(a) (Consol. 1995).

<sup>12</sup> N.Y. Elec. sec. 15-104(1)(b) (Consol. 1995).

<sup>13</sup> N.Y. Elec. sec. 15-104(2) (Consol. 1995).

**TABLE I**  
**SAMPLE PETITION FOR SUBMISSION OF RESOLUTION**  
**FOR PERMISSIVE REFERENDUM\***

To the Board of Trustees of This Village of \_\_\_\_\_, County of \_\_\_\_\_, State of New York.

We, the undersigned, duly qualified electors of the village of \_\_\_\_\_, respectfully petition that the following proposed act or resolution (here insert title, abstract or identifying number, e.g. "That the General Village Election shall be held annually on the Tuesday next succeeding the first Monday in November") be submitted to a vote of the qualified electors of the village for their approval or rejection as provided by law.

Date	Signature-Residence	Ward (if any)	Village Election District (if any)

Statement of Witness:  
I, \_\_\_\_\_, state: I am over the age of eighteen years and now reside at (residence, or post-office address if not identical) in the Village of \_\_\_\_\_ in the State of New York, County of \_\_\_\_\_. Each of the electors whose names are subscribed to this petition sheet containing \_\_\_\_\_ (fill in number) signatures, subscribed in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall be subject to the same penalties as if I had been duly sworn.

Date \_\_\_\_\_ Signature of Witness \_\_\_\_\_

\* N.Y. Village sec. 9-902[B] [Consol. 1995].  
\*\* In the Matter of *Elison v. Jacarano*, 80 Misc. 2d 685, 364 N.Y.S. 2d 103,104 (1975 Rockland Cty.).

**Table III**  
**1995 BUDGET ALLOCATIONS FOR VILLAGE ELECTIONS**

Village	COST	Village	COST
1. Ardsley	\$3,252.00	12. Mount Kisco	N/A**
2. Briarcliff Manor	550.00	13. North Tarrytown	8,500.00
3. Bronxville	3,650.00	14. Ossining	N/A***
4. Buchanan	2,000.00	15. Pelham	N/A***
5. Croton-on-Hudson	2,445.00	16. Pelham Manor	900.00
6. Dobbs Ferry	8,900.00	17. Pleasantville	1,200.00
7. Elmsford	3,200.00	18. Port Chester	12,645.00
8. Hastings	4,500.00	19. Rye Brook	6,000.00
9. Irvington	5,900.00	20. Scarsdale	1,200.00
10. Larchmont	4,900.00	21. Tarrytown	9,500.00
11. Mamaroneck	12,100.00	22. Tuckahoe	4,780.00

Source: various village clerk offices.  
\*\* In 1994, Mount Kisco adopted the Village election change. The previous year's budget allocation for the Village election was \$13,998.00.  
\*\*\* administered by County Board of Elections cost merged with November election.

**TABLE III<sup>1</sup>**

VILLAGE	[ 1992 ]		[ 1993 ]		[ 1994 ]		[ 1995 ]	
	VE	GE	VE	GE	VE	GE	VE	GE <sup>2</sup>
Ardsley	53.2	87.3	48.5	54.9	30.8	70.0	32.5	38.0
Briarcliff Manor	0.9	86.9	3.2	49.3	33.3	70.4	37.6	41.0
Bronxville	34.8	92.0	36.9	57.0	13.3	72.4	32.0	47.1
Buchanan	56.3	83.8	30.0	60.7	36.1	39.1	30.0	51.4
Croton-on-Hudson	26.9	90.9	25.1	52.0	23.3	69.6	2.5	39.1
Dobbs Ferry	22.9	89.2	19.8	49.9	5.9	67.5	16.5	37.8
Elmsford	44.3	88.9	11.2	53.1	37.5	67.9	35.9	30.1
Hastings	32.5	88.8	46.3	53.0	19.5	71.7	19.8	38.9
Irvington	24.5	88.1	19.3	48.0	28.0	68.6	6.0	33.9
Larchmont	28.0	90.3	22.0	44.0	31.0	71.3	48.0	35.0
Mamaroneck	46.8	85.6	31.1	47.5	28.5	58.3	34.2	51.9
Mount Kisco <sup>3</sup>	19.1	90.3	36.3	45.7	42.0	66.9	N/A	51.8
North Tarrytown	22.0	88.6	46.0	51.8	33.0	67.5	51.0	23.0
Ossining <sup>4</sup>	—	—	—	—	—	—	—	—
Pelham	28.0	65.6	29.5	40.7	28.2	66.1	29.8	44.8
Pelham Manor	2.2	79.9	2.3	52.3	2.1	68.3	19.5	38.1
Pleasantville <sup>4</sup>	N/A	N/A	21.0	49.7	4.0	72.9	5.0	22.8
Port Chester	35.0	83.0	39.0	45.6	33.0	58.3	36.0	38.5
Rye Brook	25.5	86.0	4.2	56.4	19.7	67.8	6.9	38.7
Scarsdale	2.3	88.9	2.1	48.0	1.6	71.2	17.5	45.3
Tarrytown	39.0	95.0	35.1	52.5	29.3	69.5	38.2	37.5
Tuckahoe	29.9	90.4	7.7	57.9	35.9	65.4	40.3	51.0

<sup>1</sup> See footnote 15 regarding off-year elections. Also, in most villages, the 1995 election was, in a sense, a local election similar to March village elections. With the exception of the County legislative candidate, the major races on the ballot were for elective town officers. As a result, the voter turnout was significantly lower than normal. However, even though 1995 was the off-year in the '92-'95 election cycle, 12 of the 21 villages in Westchester had increased voter turnout of 10% or better (5 of the 12 had 20% or better). Even in the case of those villages that showed either a moderate increase (6 of 21), or a slight decrease (3 of 21), the increased voter turnout in the other three years of the election cycle (1992-1994) is so significant, that it remains the compelling reason for presenting the change of election referendum to the electors.

<sup>2</sup> Local governments in Westchester County are divided into cities, towns and villages. A village, the smallest of the three municipalities can either: 1) make up part of a town with other villages (see below); 2) have an area that straddles more than one town (Briarcliff Manor and Mamaroneck); or, 3) is co-terminous with a town. In, essence, the same geographic area on the entire town (Scarsdale and Mount Kisco). Village residents in numbers 1 and 2 have two layers of local government and therefore, vote for both Village (March) and town officials (November).

**Villages in Westchester and their Respective Towns**

Carlisle	Mount Pleasant
Buchanan	North Tarrytown
Croton-on-Hudson	Pleasantville
	Briarcliff Manor (part)
Eastchester	Ossining
Tuckahoe	Briarcliff Manor (part)
Bronxville	Ossining
Greenburgh	
Ardsley	Pelham
Tarrytown	Pelham
Elmsford	Pelham Manor
Dobbs Ferry	
Hastings	Rye Town
Irvington	Mamaroneck (part)
	Port Chester
	Rye Brook
Mamaroneck	
Larchmont	Scarsdale
Mamaroneck (part)	(co-terminous)
Mount Kisco	
(co-terminous)	

<sup>3</sup> VE- Village Election; GE- General (November) Election.  
<sup>4</sup> No March Village election - election change referendum adopted March, 1994.  
<sup>5</sup> On November, 1994, conducted elections in the Village of Pleasantville.  
<sup>6</sup> 1992 village election results not available; 1992 November election results incomplete.

dramatically increase voter turnout (see Table III).

In Mount Kisco, the first village to embrace the change of election proposal, voter turnout increased by 10% in 1995, the first year of the change.<sup>14</sup> In 1996, with the Presidential and Congressional elections on the ballot, voter turnout will probably triple that of the previous March village elections.<sup>15</sup>

Civic and political organizations sponsor voter registration drives annually. Before every election, the League of Woman Voters distributes a comprehensive voters guide explaining issues, profiling candidates and providing other election information. It is self-evident that, barring those which carry prohibitive costs, any proposal which can effectively increase voter participation in the electoral process is desirable. In this instance, given the ease with which the election change can take place and the added incentive of tax savings, the public policy argument to approve this initiative clearly favors its adoption.

**Con**

The arguments against changing a village's election date, while appearing

laudable at first, fall apart upon closer scrutiny.

One rationale offered by opponents of the election change is, that in a March election, voters can focus better on local issues and not have them caught in the maelstrom of state and national campaigns. As a result, the theory goes, the electorate will be more informed and less likely to vote the party line.<sup>16</sup> This theory is purely speculative, and there is no empirical data to support it. In fact, the statistics seem to point in a contrary direction.

In 1993 in Mount Kisco, Democrat Richard Brodsky received the most votes in the County Executive race; however, so did Republican District Attorney candidate Jeannine Pirro.<sup>17</sup> Also, in the 1992 presidential race, Mount Kisco voters favored Democrat Bill Clinton by a large margin (51% to 36% [12% for Perot]); yet the Clinton landslide in the village gave fellow Democrat, Robert Abrams only a slight edge over Republican Alphonse D'Amato (1714 to 1702) for the U.S. Senate race.<sup>18</sup>

On the other hand, with the exception of 1988, every village election in Mount Kisco between 1984 and 1994 produced nothing less than a party-line sweep.<sup>19</sup>

Furthermore, most voters are accustomed to a November election and therefore, are naturally more focused at that time. Also, individuals who move from a town or city to a village may not realize that there are March elections until two or three election cycles. Finally, in this day of long commutes, two income families, day care and other time constraints, it

<sup>14</sup> The November, 1995 election was what is commonly referred to as an "off-year election," with highest elective office on the ballot being for County Legislator. The modest 10% increase over the 1994 village election is deceiving in that the 1994 local election in Mount Kisco had an unusually high turnout (42%) due to the fact that the change of election referendum was on the ballot that year. Using the average percentage for village elections in Mount Kisco over the previous 5 years (31.5% for village elections 1989-93), the 51.8% off-year turnout for November, 1995 actually exceeded previous turnouts by about 20%.

<sup>15</sup> Based on the 1992 turnout for the November Presidential election vs. previous March village elections.

<sup>16</sup> See former Mount Kisco Mayor Richard Roth quoted in The Reporter Dispatch, December 22, 1993, section B, at 1. See also, The Reporter Dispatch, March 10, 1994, editorial page.

<sup>17</sup> Source: Westchester County Board of Elections.

<sup>18</sup> *Id.*

<sup>19</sup> Source: Mount Kisco Village Clerk.

## GRAB THEM BY THEIR ASSETS

You need to take command of your uncollected judgment if you ever want to collect from your debtor.

You need to grab them by the assets.

You need to pull them kicking and screaming to get them moving from your debtor's bank account to yours.

Our computerized bank search, designed by an attorney, has grabbed 75 Million dollars for 3000 law firms over the past 8 years.

This is the only service of its kind in New York.

Call us.

Lutz knows how to grab assets.

### Lutz Asset Research.

330 West 42nd Street, NYC, NY 10036  
212-760-0242 1-800-999-CASH

makes more sense to have one annual election day rather than two.

Perhaps arguments against changing the election date are merely pretenses in the name of tradition. In this author's opinion, tradition is a legitimate factor in determining whether or not an institution should be maintained. However, in this instance, where current trends clearly reflect the public's desire to downsize government and avoid duplication of services, the factors in favor of the election date change outweigh arguments in opposition.

### CONCLUSION

Should villages in New York State adopt resolutions or circulate petitions to change the date of village elections from March to November? This author believes the answer should be "yes."

Aside from the administrative and fiscal advantages, the overwhelming reason for adopting the election date change is to increase voter turnout. It is good public policy to adopt initiatives whereby public participation in the governmental process is increased. Also, the State Legislature, through the Village and Election Laws, has provided a vehicle for that public policy change.

Arguments to the contrary are not supported by empirical data and are strictly emotional in their origin. These contentions can be refuted by data showing the dramatic increases in voter turnout. After weighing all the factors and the relative ease with which the election change can be implemented, all villages should allow the voters of their respective villages the opportunity to adopt or reject the election date change by placing the issue on the ballot at upcoming March elections. ↵

**Author's note on the statistical research for this article:** The numbers used for all percentages of village election results were taken from the various village clerks of files. In most cases, villages in Westchester County do not keep detailed information regarding voter registration and turnout. Typically, a village only keeps a record of the total number of votes cast for a particular office. For example, in the case of Village Trustees, where voters select two choices from a field of candidates, the voter turnout was determined by adding up the votes cast for all Trustee candidates and dividing that number by two. That number was then divided by the number of registered voters to ascertain the percentage of turnout. It should be mentioned that the following villages: Irvington, Mamaroneck, and Mount Kisco, kept superb election statistics; including voter turnout, the number of registered voters and percentage of voter turnout, all by individual election district.



**J**ames V. Bellano is an attorney in Hawthorne, NY and is employed at the law offices of Franklin M. Boykoff. Mr. Bellano was the architect of the successful change of election date proposal in Mount Kisco in Westchester County in 1994. He is an adjunct professor of Government and History at Mercy College in Dobbs Ferry, NY and at Quinnipiac College in Hamden, CT.

The numbers used for all percentages of general election results were based on the annual canvass books of the Westchester County Board of Elections. The numbers of registered voters in each village for village and general elections was also provided by the Westchester County Board of Elections. This information is compiled on a town-by-town basis and is broken down by election district. The village numbers were pulled out after determining which districts a particular village occupies in a town.

While the villages of Buchanan, Irvington, Mamaroneck, Mount Kisco, Pleasantville and Tarrytown all provided information on voter registration, for consistency, the Board of Election numbers were used in determining voter turnout. The numbers given to me by the above-mentioned villages did not differ from that of the Board of elections by more than 3% in a given year. Given the fluidity of voter registration statistics, the small variation between County and village numbers is not significant.