

S. 321--B

A. 99--B

2015-2016 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2015

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law, in relation to the establishment, extension, powers and expenses of underground utility improvement districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 190 of the town law, as amended by chapter 378 of
2 the laws of 2012, is amended to read as follows:
3 S 190. Establishment or extension of improvement districts. Upon a
4 petition as hereinafter provided, the town board of any town may estab-
5 lish or extend in said town a sewer, drainage, water, water quality
6 treatment, park, public parking, lighting, snow removal, water supply,
7 sidewalk, a fallout shelter district or refuse and garbage district,
8 aquatic plant growth control district, ambulance district, watershed
9 protection improvement district, UNDERGROUND UTILITY IMPROVEMENT
10 DISTRICT, and in any town bordering upon or containing within its bound-
11 aries any navigable waters of this state, a harbor improvement district,
12 a public dock district, or beach erosion control district, and provide
13 improvements or services, or both, in any such district, wholly at the
14 expense of the district; but no water supply district shall be estab-

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

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lished or extended to include lands situate within the boundaries of a water district. No such district shall be established or extended in a city or in an incorporated village provided, however, that such a district may be established or extended wholly or partly within an incorporated village on consent of the village expressed in a local law, ordinance or resolution, subject to a referendum on petition under section twenty-four of the municipal home rule law or a permissive referendum under article nine of the village law, as the case may be, and except, in the case of a water quality treatment district, on consent of a village expressed in a local law or by resolution of the board of trustees and not subject to any referendum.

S 2. The town law is amended by adding a new section 190-h to read as follows:

S 190-H. APPLICABILITY. FOR PURPOSES OF THIS ARTICLE AND ARTICLE TWELVE-A OF THIS CHAPTER, THE ESTABLISHMENT OF AN UNDERGROUND UTILITY DISTRICT SHALL ONLY BE AUTHORIZED TO OCCUR WITHIN A COUNTY WITH A POPULATION OF ONE MILLION OR MORE WHICH DRAW THEIR PRIMARY SOURCE OF DRINKING WATER FOR A MAJORITY OF COUNTY RESIDENTS FROM A DESIGNATED SOLE SOURCE AQUIFER.

S 3. Paragraph a of subdivision 1 of section 193 of the town law, as amended by chapter 378 of the laws of 2012, is amended to read as follows:

a. Whenever a petition shall be presented to the town board pursuant to this article, for the establishment or extension of a sewer, wastewater disposal, drainage, water, water quality treatment, park, public parking, lighting, snow removal, water supply, sidewalk, refuse and garbage, aquatic plant growth control district, ambulance district, harbor improvement district, public dock district, beach erosion control district, watershed protection improvement district, UNDERGROUND UTILITY IMPROVEMENT DISTRICT, or a fallout shelter district, the board shall adopt an order and enter the same in the minutes of its proceedings, reciting in general terms the filing of such petition, the boundaries of the proposed district, the improvements proposed, the maximum amount proposed to be expended for the improvement as stated in the petition or the maximum amount to be expended for the performance or supplying of services if a maximum amount is stated in the petition, the estimated cost of hook-up fees, if any, to, and the cost of the district or extension to, the typical property and, if different, the typical one or two family home, and specifying the time when and place where said board will meet to consider the petition and to hear all persons interested in the subject thereof, concerning the same. The board shall cause a copy of such order, certified by the town clerk, to be published at least once in the official paper, the first publication thereof to be not less than ten nor more than twenty days before the day set therein for the hearing as aforesaid, and shall also cause a copy thereof to be posted on the signboard of the town maintained pursuant to subdivision six of section thirty of this chapter, not less than ten nor more than twenty days before the day designated for the hearing as aforesaid. In the event that the town maintains a website, such information may also be provided on the website. Prior to the publication of a copy of the order, the board shall cause to be prepared, and file for public inspection with the town clerk, a detailed explanation of how the estimated cost of hook-up fees, if any, to, and the cost of the district or extension to, the typical property and, if different, the typical one or two family home was computed.

1 S 4. Section 198 of the town law is amended by adding a new subdivi-
2 sion 10-h to read as follows:

3 10-H. UNDERGROUND UTILITY IMPROVEMENT DISTRICT. AFTER AN UNDERGROUND
4 UTILITY IMPROVEMENT DISTRICT HAS BEEN ESTABLISHED, THE TOWN BOARD MAY
5 TAKE SUCH ACTION AS MAY BE REQUIRED TO ADOPT PLANS AND SPECIFICATIONS
6 AND ENTER INTO A CONTRACT OR CONTRACTS, OR TAKE SUCH OTHER ACTIONS AS
7 MAY BE REQUIRED WITH A PUBLIC UTILITY COMPANY, MUNICIPALITY, OR PUBLIC
8 AUTHORITY IN ORDER TO CONSTRUCT UNDERGROUND NEW PUBLIC UTILITY FACILI-
9 TIES OR CONVERT EXISTING OVERHEAD PUBLIC UTILITY FACILITIES TO UNDER-
10 GROUND FACILITIES. FOR THE PURPOSES OF THIS SUBDIVISION, "PUBLIC UTILITY
11 FACILITIES" SHALL INCLUDE THE TRANSMISSION AND DISTRIBUTION OF ELEC-
12 TRICAL ENERGY, TELEPHONE LINES, AND CABLE TELEVISION LINES, INCLUDING
13 POLES, WIRES, AND ALL ASSOCIATED STRUCTURES.

14 S 5. Subdivision 3 of section 202 of the town law, as amended by chap-
15 ter 378 of the laws of 2012, is amended to read as follows:

16 3. The expense of the establishment of a park, public parking, water,
17 lighting, snow removal, water supply, water, water storage and distrib-
18 ution, sidewalk, refuse and garbage, aquatic plant growth control
19 district, ambulance district, harbor improvement district, watershed
20 protection improvement district, UNDERGROUND UTILITY IMPROVEMENT
21 DISTRICT, public dock district, fallout shelter district, or beach
22 erosion control district, and providing improvements or services, or
23 both, therefor, and of constructing lateral water mains pursuant to
24 paragraph (b) of subdivision one of section one hundred ninety-nine OF
25 THIS ARTICLE, shall be assessed, levied and collected from the several
26 lots and parcels of land within the district for each purpose in the
27 same manner and at the same time as other town charges, except as other-
28 wise provided by law. In the event that any order adopted pursuant to
29 section two hundred nine-d of this chapter for the establishment of a
30 water district, sidewalk district, a public parking district, a refuse
31 and garbage district, an aquatic plant growth control district, lighting
32 district, watershed protection improvement district, UNDERGROUND UTILITY
33 IMPROVEMENT DISTRICT, or beach erosion and control district or that any
34 petition for the establishment of a water district, sidewalk district, a
35 public parking district, a refuse and garbage district, an aquatic plant
36 growth control district, lighting district, or beach erosion control
37 district, shall contain a statement that the cost of constructing the
38 water system, sidewalks, lighting system, or acquiring and improving
39 lands for public parking or for refuse and garbage purposes or for beach
40 erosion control, or for watershed protection improvement district, OR
41 FOR UNDERGROUND UTILITY IMPROVEMENT DISTRICT, or for aquatic plant
42 growth control, shall be assessed by the town board in proportion as
43 nearly as may be to the benefit which each lot or parcel will derive
44 therefrom, the amount to be raised for the payment of the principal and
45 interest of the bonds issued for the construction of the water system,
46 sidewalks, lighting system, or acquiring and improving lands for public
47 parking or for refuse and garbage purposes or for beach erosion control,
48 or for aquatic plant growth control, or for watershed protection
49 improvement district, OR FOR UNDERGROUND UTILITY IMPROVEMENT DISTRICT,
50 pursuant to such petition or order, shall be assessed on the lands with-
51 in such district in the same manner as provided in the case of trunk
52 sewers. The expense of constructing lateral water mains pursuant to
53 paragraph (c) of subdivision one of section one hundred ninety-nine OF
54 THIS ARTICLE shall be assessed, levied and collected from the several
55 lots and parcels of land within the district in proportion to the area
56 of such lot or parcel of land to the total area of the district.

1 S 6. Subdivision 2 of section 202-b of the town law, as amended by
2 chapter 378 of the laws of 2012, is amended to read as follows:

3 2. The town board may, on behalf of a park, public parking, ambulance,
4 lighting, snow removal, refuse and garbage, public dock, watershed
5 protection improvement district, UNDERGROUND UTILITY IMPROVEMENT
6 DISTRICT, or beach erosion control district, and within the limitations
7 of section one hundred ninety-eight of this chapter, acquire additional
8 apparatus and equipment and replace obsolete, inadequate, damaged,
9 destroyed or worn-out apparatus and equipment, and it may construct
10 additional facilities and appurtenances thereto or reconstruct or
11 replace obsolete, inadequate, damaged, destroyed or worn-out facilities
12 and appurtenances thereto. Such expenditure shall be authorized in the
13 manner provided in subdivision one of this section, except that the map
14 and plan described by said subdivision one shall not be required. Howev-
15 er, nothing herein contained shall be construed to limit or supersede
16 the provisions of section seventy-two hundred three of the education
17 law.

18 S 7. Subdivision 1 of section 209-a of the town law, as amended by
19 chapter 378 of the laws of 2012, is amended to read as follows:

20 1. the term "improvement district" shall include only a sewer, waste-
21 water disposal, drainage, water, park, public parking, lighting, snow
22 removal, water supply, sidewalk, refuse and garbage, aquatic plant
23 growth control, or watershed protection improvement district, OR UNDER-
24 GROUND UTILITY IMPROVEMENT DISTRICT, or ambulance district in any town,
25 and, in any town bordering upon or containing within its boundaries any
26 navigable water of this state a public dock or beach erosion control
27 district;

28 S 8. Subdivision 1 of section 209-d of the town law, as amended by
29 chapter 378 of the laws of 2012, is amended to read as follows:

30 1. Subsequent to the date of the filing of the map, plans and report
31 in the office of the town clerk as required in section two hundred
32 nine-c of this article the town board may adopt an order and enter the
33 same in the minutes of its proceedings reciting a description of the
34 boundaries of the proposed district or extension in a manner sufficient
35 to identify the lands included therein as in a deed of conveyance, the
36 improvements proposed, the maximum amount proposed to be expended for
37 the improvement, the estimated cost of hook-up fees, if any, to, and the
38 cost of the district or extension to, the typical property and, if
39 different, the typical one or two family home, the proposed method of
40 financing to be employed, the fact that a map, plan and report describ-
41 ing the same are on file in the town clerk's office for public
42 inspection and specifying the time when and the place where said board
43 will meet and hold a public hearing to hear all persons interested in
44 the subject thereof, concerning the same. If such order proposes only
45 the performance or supplying of certain services, it may state the maxi-
46 mum amount to be expended annually for such services. The board shall
47 cause a copy of such order to be published at least once in the official
48 paper, the first publication thereof to be not less than ten nor more
49 than twenty days before the day set therein for the hearing as afore-
50 said, and shall also cause a copy thereof to be posted on the sign-board
51 of the town maintained pursuant to subdivision six of section thirty of
52 this chapter, not less than ten nor more than twenty days before the day
53 designated for the hearing as aforesaid. Such order may further state
54 such place other than the town clerk's office where the map, plan and
55 report may be examined in advance of the hearing, if the town board
56 determines that, in the public interest, some other additional place is

1 necessary or desirable. If a water district, sidewalk district, a public
2 parking district, a refuse and garbage district, aquatic plant growth
3 control district, watershed protection improvement district, UNDERGROUND
4 UTILITY IMPROVEMENT DISTRICT, or beach erosion control district is
5 proposed, such order may contain a statement that the cost of construct-
6 ing the water system, sidewalks or acquiring lands for public parking or
7 for refuse and garbage purposes, or aquatic plant growth control
8 purposes or for beach erosion control or for watershed protection
9 improvement purposes, OR FOR UNDERGROUND UTILITY IMPROVEMENT PURPOSES,
10 shall be assessed by the town board in proportion as nearly as may be to
11 the benefit which each lot or parcel will derive therefrom. Prior to the
12 publication of the order, the board shall cause to be prepared, and file
13 for public inspection with the town clerk, a detailed explanation of how
14 the estimated cost of hook-up fees, if any, to, and the cost of the
15 district or extension to, the typical property and, if different, the
16 typical one or two family home, was computed.
17 S 9. This act shall take effect immediately.