

# STATE OF NEW YORK

3091--B

2025-2026 Regular Sessions

## IN ASSEMBLY

January 23, 2025

Introduced by M. of A. KELLES, ROSENTHAL -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to environmental restoration projects; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 56-0501 of the environmental conservation law is amended by adding a new subdivision 3 to read as follows:

3. Beginning in the state fiscal year next succeeding the effective date of this subdivision, environmental restoration projects may be funded within available appropriations.

§ 2. Subdivision 1 of section 56-0502 of the environmental conservation law is REPEALED.

§ 3. Subdivisions 1-a and 5 of section 56-0502 of the environmental conservation law, subdivision 1-a as added and subdivision 5 as amended by section 2 of part D of chapter 577 of the laws of 2004, are amended and two new subdivisions 1 and 7 are added to read as follows:

1. "Contaminant" shall mean hazardous waste as defined in section 27-1301 of this chapter, petroleum as defined in section one hundred seventy-two of the navigation law, the chemicals identified in paragraph c of subdivision three of section eleven hundred twelve of the public health law whether or not listed pursuant to the authority of the department of health under such section and any other emerging contaminants as defined in section eleven hundred twelve of the public health law, and any other PFAS substances for which a testing method has been recommended, certified, approved or is in use by the department, the department of health or the federal environmental protection agency.

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

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1 1-a. "Contamination" or "contaminated" shall ~~[have the same meaning as~~  
2 ~~provided in section 27-1405 of this chapter]~~ mean the presence of a  
3 contaminant in any environmental media, including soil, surface water,  
4 groundwater, air, or indoor air.

5 5. "Municipality", for purposes of this title, shall have the same  
6 meaning as provided in subdivision fifteen of section 56-0101 of this  
7 article, except that such term shall not refer to a municipality that  
8 ~~[generated, transported, or disposed of, arranged for, or that caused~~  
9 ~~the generation, transportation, or disposal of contamination located at~~  
10 ~~real property proposed to be investigated or to be remediated under an~~  
11 ~~environmental restoration project. For purposes of this title, the term~~  
12 ~~municipality includes a municipality acting in partnership with a commu-~~  
13 ~~nity based organization]~~, through gross negligence or willful or inten-  
14 tional misconduct, caused or contributed to contamination, which threat-  
15 ens public health or the environment, at real property to be  
16 investigated or remediated under an environmental restoration project.

17 7. "PFAS substances" shall mean a class of fluorinated organic chemi-  
18 cals containing at least one fully fluorinated carbon atom.

19 § 4. Paragraph (c) of subdivision 2 of section 56-0503 of the environ-  
20 mental conservation law, as amended by section 38 of part BB of chapter  
21 56 of the laws of 2015, is amended to read as follows:

22 (c) A provision that the municipality shall assist in identifying a  
23 responsible party by searching local records, including property tax  
24 rolls, or document reviews, and if, in accordance with the required  
25 departmental approval of any settlement with a responsible party, any  
26 responsible party payments become available to the municipality, before,  
27 during or after the completion of an environmental restoration project,  
28 which were not included when the state share was calculated pursuant to  
29 this section, ~~[the state assistance share shall be recalculated, and]~~  
30 the value of such settlement shall be used by the municipality to fund  
31 its municipal share, and the state assistance share shall not be recal-  
32 culated, to the extent that the total of all such settlement amounts is  
33 equal to or less than the municipal share. To the extent the total of  
34 all such settlement amounts exceeds the municipal share, the muni-  
35 cipality shall pay such exceedance to the state, for deposit into the  
36 environmental restoration project account of the hazardous waste remedi-  
37 al fund established under section ninety-seven-b of the state finance  
38 law~~[, the difference between the original state assistance payment and~~  
39 ~~the recalculated state share. Recalculation of the state share shall be~~  
40 ~~done each time a payment from a responsible party is received by the~~  
41 ~~municipality];~~

42 § 5. Paragraphs (a), (d), and (e) of subdivision 1 of section 56-0505  
43 of the environmental conservation law, as amended by section 5 of part D  
44 of chapter 1 of the laws of 2003, are amended and a new paragraph (f) is  
45 added to read as follows:

46 (a) the benefit to the environment and public health realized by the  
47 expeditious remediation of the property proposed to be subject to such  
48 project;

49 (d) real property in a designated brownfield opportunity area pursuant  
50 to section nine hundred seventy-r of the general municipal law or real  
51 property in a disadvantaged community pursuant to subdivision five of  
52 section 75-0101 of this chapter; [and]

53 (e) the opportunity for other funding sources to be available for the  
54 investigation or remediation of such property, including, but not limit-  
55 ed to, enforcement actions against responsible parties (other than the  
56 municipality to which state assistance was provided under this title; or

1 a successor in title, lender, or lessee who was not otherwise a respon-  
2 sible party prior to such municipality taking title to the property),  
3 state assistance payments pursuant to title thirteen of article twenty-  
4 seven of this chapter, and the existence of private parties willing to  
5 remediate such property using private funding sources. Highest priority  
6 shall be granted to projects for which other such funding sources are  
7 not available[-]; and

8 (f) for drinking water contamination sites as defined in section  
9 27-1201 of this chapter, any requirements made by the commissioner of  
10 health pursuant to section 27-1205 of this chapter, for a municipally  
11 owned public water system to take action to reduce exposure to an emerg-  
12 ing contaminant or contaminants.

13 § 6. Subdivision 2 of section 56-0505 of the environmental conserva-  
14 tion law is REPEALED.

15 § 7. Subdivisions 3, 4, and 5 of section 56-0505 of the environmental  
16 conservation law are renumbered subdivisions 2, 3, and 4 and subdivision  
17 2, as amended by section 5 of part D of chapter 1 of the laws of 2003  
18 and as renumbered by this section, is amended to read as follows:

19 2. The remediation objective of an environmental restoration remedi-  
20 ation project shall meet the same standard for protection of public  
21 health and the environment that applies to remedial actions undertaken  
22 pursuant to ~~[section]~~ sections 27-1313 and 27-1205 of this chapter.

23 § 8. Subdivision 3 of section 56-0509 of the environmental conserva-  
24 tion law, as amended by section 4 of part D of chapter 577 of the laws  
25 of 2004, is amended to read as follows:

26 3. The state shall indemnify and save harmless any municipality[7]  
27 that completes an environmental restoration remediation project in  
28 compliance with the terms and conditions of a state assistance contract  
29 or written agreement pursuant to subdivision three of section 56-0503 of  
30 this title providing such assistance and any successor in title, lessee,  
31 or lender ~~[identified in paragraph (a) of subdivision one of this~~  
32 ~~section]~~ in the amount of any judgment or settlement, obtained against  
33 such municipality, successor in title, lessee, or lender in any court  
34 for any common law cause of action arising out of: (a) the presence of  
35 any contamination in or on property at anytime before the effective date  
36 of a contract entered into pursuant to this title; or (b) municipal  
37 actions related to the implementation of the environmental restoration  
38 remediation project. Such municipality, successor in title, lessee, or  
39 lender shall be entitled to representation by the attorney general,  
40 unless the attorney general determines, or a court of competent juris-  
41 diction determines, that such representation would constitute a conflict  
42 of interest, in which case the attorney general shall certify to the  
43 comptroller that such party is entitled to private counsel of its  
44 choice, and reasonable attorneys' fees and expenses shall be reimbursed  
45 by the state. Any settlement of such an action shall be subject to the  
46 approval of the attorney general as to form and amount, and this subdi-  
47 vision shall not apply to any settlement of any such action which has  
48 not received such approval.

49 § 9. Notwithstanding subdivisions a, b, and c of section 32 of chapter  
50 413 of the laws of 1996, a memorandum of understanding shall not be  
51 required to make available twenty million dollars (\$20,000,000) from the  
52 Clean Water/Clean Air Bond Act of 1996 for state assistance payments to  
53 municipalities for environmental remediation in accordance with title 5  
54 of article 56 of the environmental conservation law.

55 § 10. This act shall take effect immediately.