

5362

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to authorize the funding of the sanitary sewer system in the hamlet of Hemlock in the town of Livonia

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

1 Section 1. Legislative findings. It is hereby found and determined
2 that the town board of the town of Livonia, in the county of Livingston,
3 (i) by a resolution adopted on September 4, 1997 pursuant to section
4 209-d of the town law, established the Hemlock sewer district at the
5 maximum cost not to exceed \$2,305,700, (ii) by resolution adopted on
6 January 20, 2005 pursuant to section 202-b of the town law, authorized
7 additional facilities to be included in the Hemlock sewer district, at
8 an additional cost of up to \$100,000, and (iii) by a bond resolution
9 adopted on March 21, 2002, as supplemented and amended by a supplemental
10 bond resolution adopted on January 20, 2005 authorized the issuance of
11 serial bonds not to exceed the sum of \$2,305,700 for the purpose of
12 financing the sanitary sewer improvements to be included in the Hemlock
13 sewer district.

14 It is also hereby found and determined that the town issued its serial
15 bonds under the aforesaid bond resolutions and bond anticipation notes
16 in anticipation of the issuance of such serial bonds as follows:

17 (a) A bond anticipation note dated July 15, 2002 in the amount of
18 \$500,000. Such bond anticipation note was renewed by the issuance of a
19 renewal bond anticipation note dated July 17, 2003 in the amount of
20 \$500,000. Said renewal bond anticipation note was again renewed by the
21 issuance of a renewal bond anticipation note dated July 16, 2004 in the
22 amount of \$500,000. Thereafter, on June 15, 2005, the town issued its
23 \$100,000 Public Improvement (Serial) Bonds, Series 2005, for the purpose
24 of refinancing \$100,000 principal amount of said outstanding bond antic-
25 ipation note and the balance of said bond anticipation note was again
26 renewed by the issuance of a renewal bond anticipation note dated July
27 19, 2005 in the amount of \$400,000. Thereafter on June 18, 2006 said

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

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1 renewal bond anticipation note was retired in full through the applica-
2 tion of grant moneys received by the town for such purpose.

3 (b) A bond anticipation note dated November 8, 2002 in the amount of
4 \$450,000. Said bond anticipation note was renewed by the issuance of a
5 renewal bond anticipation note on November 7, 2003 in the amount of
6 \$450,000. Said renewal bond anticipation note was again renewed by the
7 issuance of a renewal bond anticipation note dated November 10, 2004 in
8 the amount of \$450,000. Thereafter, a principal payment of \$15,000 was
9 made on said renewal bond anticipation note and said note was again
10 renewed by the issuance of a renewal bond anticipation note dated Novem-
11 ber 16, 2005 in the amount of \$435,000. Thereafter, a principal payment
12 of \$22,500 was made on said renewal bond anticipation note and said note
13 was again renewed by the issuance of a renewal bond anticipation note
14 dated November 14, 2006. Thereafter, a principal payment of \$4,100 was
15 made on said renewal bond anticipation note and said note was again
16 renewed by the issuance of a renewal bond anticipation note dated Novem-
17 ber 13, 2007. Thereafter, a principal payment of \$11,000 was made on
18 said renewal bond anticipation note and said note was again renewed by
19 the issuance of a renewal bond anticipation note dated November 13,
20 2008.

21 (c) A bond anticipation note dated July 17, 2003 in the amount of
22 \$700,000. Said bond anticipation note was renewed by the issuance of a
23 renewal bond anticipation note on July 16, 2004 in the amount of
24 \$700,000. Thereafter, pursuant to a resolution of the town board adopted
25 on July 1, 2005, the town advanced moneys from the town's general fund
26 to make a principal payment of \$140,000 on said renewal bond antic-
27 ipation note, which resolution provided that such advance was to be
28 reimbursed out of the proceeds of serial bonds to be subsequently issued
29 by the town, and said note was again renewed by the issuance of a
30 renewal bond anticipation note dated July 19, 2005 in the amount of
31 \$560,000. Thereafter, said renewal bond anticipation note was retired in
32 full on June 19, 2006 by the payment of \$560,000 out of grant moneys
33 received by the town from the federal and state governments that were
34 intended to be applied to pay costs of improvements included in the
35 Hemlock sewer district.

36 (d) On September 29, 2005 the town issued its E.F.C. Clean Water Stat-
37 utory Installment Bonds - 2005 in the principal amount of \$618,616 for
38 the intended purposes of (i) refunding in full the aforementioned
39 \$100,000 Public Improvement (Serial) Bonds, Series 2005 and (ii) refi-
40 nancing \$518,616 principal amount of the aforementioned \$560,000 renewal
41 bond anticipation note dated July 19, 2005. Thereafter, such \$518,616
42 was not so applied to refinance such bond anticipation note dated July
43 19, 2005 but rather was used to pay a portion of the costs of improve-
44 ments included in the Hemlock sewer district.

45 It is also hereby found and determined that the total costs of under-
46 taking the improvements included in the Hemlock sewer district that were
47 paid by the town board of the town were \$2,882,000, which amount is in
48 excess of the maximum cost of the said water district authorized by the
49 aforementioned resolution adopted on September 4, 1997.

50 The legislature further finds and determines that the expenditure by
51 the town on the improvements included in the Hemlock sewer district of
52 an amount in excess of the \$2,305,700 maximum cost authorized by the
53 aforesaid resolution adopted on September 4, 1997 was in violation of
54 the provisions of the town law, in that the town board did not, as
55 required by section 209-h of the town law, conduct a public hearing in
56 the manner described in article 12 of the town law, obtain the approval

1 of such increase in maximum cost by an order of the comptroller of the
2 state of New York as required by section 209-f of the town law, and
3 adopt an order determining that it is in the public interest to author-
4 ize the increase of such maximum cost, subject to a permissive referen-
5 dum in the manner required by subdivision d of section 209-e of the town
6 law.

7 The legislature further finds and determines that said bond antic-
8 ipation notes, renewal bond anticipation notes, and statutory install-
9 ment bonds were issued in violation of the provisions of the local
10 finance law including the provisions of paragraph d of section 23.00 of
11 the local finance law which requires that a portion of any bond antic-
12 ipation note be redeemed from a source other than the proceeds of bonds
13 within two years of the original date of issue of a bond anticipation
14 note and that a further portion thereof be redeemed prior to the termi-
15 nation of each twelve month period succeeding the date on which the
16 original portion was so redeemed. The legislature also finds and deter-
17 mines that certain of such bond anticipation notes were issued in
18 violation of paragraph b of section 23.00 of the local finance law in
19 that such bond anticipation notes were issued for a period in excess of
20 one year.

21 S 2. Notwithstanding the defects described in section one of this act,
22 all actions and proceedings undertaken by the town of Livonia, Living-
23 ston county, in connection with the proceedings undertaken by the town
24 board under article 12-A of the town law to authorize the establishment
25 of Hemlock sewer district and the payment of costs of the improvements
26 included within the Hemlock sewer district in excess of the maximum cost
27 approved by the town board by the resolution dated September 2, 1997 and
28 all actions and proceedings undertaken by the town of Livonia, Living-
29 ston county, in connection with the adoption of the serial bond resol-
30 ution dated March 21, 2002 authorizing the issuance of serial bonds not
31 to exceed the sum of \$2,305,700 for purposes of financing the sanitary
32 sewer improvements included within the Hemlock sewer district and all
33 actions and proceedings in connection with the issuance of bond antic-
34 ipation notes pursuant thereto as described in section one of this act
35 are hereby legalized, validated, ratified and confirmed. Further,
36 notwithstanding the defects as described in section one of this act in
37 connection with the issuance of said obligations, the town of Livonia is
38 hereby authorized to issue renewal bond anticipation notes and/or serial
39 bonds in an amount not to exceed the sum of \$576,000 for the purpose of
40 financing the sewer improvements described herein, including, without
41 limitation, the issuance of serial bonds for the purpose of reborrowing
42 the \$140,000 principal payment made on the renewal bond anticipation
43 note dated July 15, 2004 from the town's general fund pursuant to the
44 resolution of the town board, dated July 1, 2005, described in section
45 one of this act.

46 S 3. Except as otherwise provided in this act, the bonds and bond
47 anticipation notes issued pursuant to this act shall be issued in
48 accordance with the provisions of the local finance law.

49 S 4. If any clause, sentence, subdivision, paragraph or part of this
50 act be judged by any court of competent jurisdiction to be invalid, such
51 judgment shall not affect, impair or invalidate the remainder thereof,
52 but shall be confined in its operation to the clause, sentence, subdivi-
53 sion, paragraph, section or part thereof directly involved in the
54 controversy in which such judgment shall have been rendered.

55 S 5. This act shall take effect immediately.