

S. 4605

A. 7119

2011-2012 Regular Sessions

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

April 13, 2011

IN SENATE -- Introduced by Sens. LAVALLE, JOHNSON, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. THIELE, GALEF, MAISEL, McDONOUGH, MONTESANO, MURRAY, ROBERTS, SCHIMEL, WEISENBERG, WEPRIN -- Multi-Sponsored by -- M. of A. GOODELL, McKEVITT, P. RIVERA, SAYWARD -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law, in relation to the establishment, extension, powers and expenses of watershed protection 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 24 of
2 the laws of 1988, 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, and in any town bordering upon or
10 containing within its boundaries any navigable waters of this state, a
11 harbor improvement district, a public dock district, or beach erosion
12 control district, and provide improvements or services, or both, in any
13 such district, wholly at the expense of the district; but no water
14 supply district shall be established or extended to include lands situ-
15 ate within the boundaries of a water district. No such district shall be
16 established or extended in a city or in an incorporated village
17 provided, however, that such a district may be established or extended
18 wholly or partly within an incorporated village on consent of the

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

LBD09908-01-1

1 village expressed in a local law, ordinance or resolution, subject to a
2 referendum on petition under section twenty-four of the municipal home
3 rule law or a permissive referendum under article nine of the village
4 law, as the case may be, and except, in the case of a water quality
5 treatment district, on consent of a village expressed in a local law or
6 by resolution of the board of trustees and not subject to any referen-
7 dum.

8 S 2. Paragraph a of subdivision 1 of section 193 of the town law, as
9 amended by section 18 of part X of chapter 62 of the laws of 2003, is
10 amended to read as follows:

11 a. Whenever a petition shall be presented to the town board pursuant
12 to this article, for the establishment or extension of a sewer, wastewa-
13 ter disposal, drainage, water, water quality treatment, park, public
14 parking, lighting, snow removal, water supply, sidewalk, refuse and
15 garbage, aquatic plant growth control district, ambulance district,
16 harbor improvement district, public dock district, beach erosion control
17 district, WATERSHED PROTECTION IMPROVEMENT DISTRICT, or a fallout shel-
18 ter district, the board shall adopt an order and enter the same in the
19 minutes of its proceedings, reciting in general terms the filing of such
20 petition, the boundaries of the proposed district, the improvements
21 proposed, the maximum amount proposed to be expended for the improvement
22 as stated in the petition or the maximum amount to be expended for the
23 performance or supplying of services if a maximum amount is stated in
24 the petition, the estimated cost of hook-up fees, if any, to, and the
25 cost of the district or extension to, the typical property and, if
26 different, the typical one or two family home, and specifying the time
27 when and place where said board will meet to consider the petition and
28 to hear all persons interested in the subject thereof, concerning the
29 same. The board shall cause a copy of such order, certified by the town
30 clerk, to be published at least once in the official paper, the first
31 publication thereof to be not less than ten nor more than twenty days
32 before the day set therein for the hearing as aforesaid, and shall also
33 cause a copy thereof to be posted on the signboard of the town main-
34 tained pursuant to subdivision six of section thirty of this chapter,
35 not less than ten nor more than twenty days before the day designated
36 for the hearing as aforesaid. In the event that the town maintains a
37 website, such information may also be provided on the website. Prior to
38 the publication of a copy of the order, the board shall cause to be
39 prepared, and file for public inspection with the town clerk, a detailed
40 explanation of how the estimated cost of hook-up fees, if any, to, and
41 the cost of the district or extension to, the typical property and, if
42 different, the typical one or two family home was computed.

43 S 3. Section 198 of the town law is amended by adding a new subdivi-
44 sion 10-g to read as follows:

45 10-G. WATERSHED PROTECTION IMPROVEMENT DISTRICT. AFTER A WATERSHED
46 PROTECTION IMPROVEMENT DISTRICT HAS BEEN ESTABLISHED, THE TOWN BOARD MAY
47 TAKE SUCH ACTION AS MAY BE REQUIRED TO ADOPT PLANS AND SPECIFICATIONS
48 AND ENTER INTO A CONTRACT OR CONTRACTS, OR TAKE SUCH OTHER ACTIONS AS
49 MAY BE REQUIRED, FOR THE PROTECTION AND RESTORATION OF GROUNDWATER,
50 SURFACE WATERS, AND DRINKING WATER QUALITY AS IT MAY DEEM TO BE NECES-
51 SARY OR DESIRABLE, INCLUDING BUT NOT LIMITED TO STORMWATER TREATMENT
52 PROJECTS AND WETLAND CONSTRUCTION. SUCH DISTRICT SHALL ALSO BE EMPOWERED
53 TO PROVIDE REBATES TO PROPERTY OWNERS IN THE DISTRICT TO PROMOTE
54 WATERSHED PROTECTION, INCLUDING BUT NOT LIMITED TO SEPTIC SYSTEM
55 UPGRADES, ALTERNATIVE SEPTIC SYSTEMS, CONSERVATION LANDSCAPING, STORMWA-

1 TER COLLECTION, RESTORATION OF NATURAL SHORELINES AND SHORELINE BUFFERS,
2 AND REMOVAL OF IMPERMEABLE SURFACES.

3 S 4. Subdivision 3 of section 202 of the town law, as amended by chap-
4 ter 658 of the laws of 1990, is amended to read as follows:

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

43 S 5. Subdivision 2 of section 202-b of the town law, as amended by
44 chapter 511 of the laws of 1989, is amended to read as follows:

45 2. The town board may, on behalf of a park, public parking, ambulance,
46 lighting, snow removal, refuse and garbage, public dock, WATERSHED
47 PROTECTION IMPROVEMENT DISTRICT, or beach erosion control district, and
48 within the limitations of section one hundred ninety-eight of this chap-
49 ter, acquire additional apparatus and equipment and replace obsolete,
50 inadequate, damaged, destroyed or worn-out apparatus and equipment, and
51 it may construct additional facilities and appurtenances thereto or
52 reconstruct or replace obsolete, inadequate, damaged, destroyed or worn-
53 out facilities and appurtenances thereto. Such expenditure shall be
54 authorized in the manner provided in subdivision one [hereof] OF THIS
55 SECTION, except that the map and plan described by said subdivision one
56 shall not be required. However, nothing herein contained shall be

1 construed to limit or supersede the provisions of section seventy-two
2 hundred three of the education law.

3 S 6. Subdivision 1 of section 209-a of the town law, as amended by
4 chapter 397 of the laws of 1995, is amended to read as follows:

5 1. the term "improvement district" shall include only a sewer, waste-
6 water disposal, drainage, water, park, public parking, lighting, snow
7 removal, water supply, sidewalk, refuse and garbage, aquatic plant
8 growth control, OR WATERSHED PROTECTION IMPROVEMENT DISTRICT or ambu-
9 lance district in any town, and, in any town bordering upon or contain-
10 ing within its boundaries any navigable water of this state a public
11 dock or beach erosion control district;

12 S 7. Subdivision 1 of section 209-d of the town law, as amended by
13 chapter 397 of the laws of 1995, is amended to read as follows:

14 1. Subsequent to the date of the filing of the map, plans and report
15 in the office of the town clerk as required in section two hundred
16 nine-c of this article the town board may adopt an order and enter the
17 same in the minutes of its proceedings reciting a description of the
18 boundaries of the proposed district or extension in a manner sufficient
19 to identify the lands included therein as in a deed of conveyance, the
20 improvements proposed, the maximum amount proposed to be expended for
21 the improvement, the estimated cost of hook-up fees, if any, to, and the
22 cost of the district or extension to, the typical property and, if
23 different, the typical one or two family home, the proposed method of
24 financing to be employed, the fact that a map, plan and report describ-
25 ing the same are on file in the town clerk's office for public
26 inspection and specifying the time when and the place where said board
27 will meet and hold a public hearing to hear all persons interested in
28 the subject thereof, concerning the same. If such order proposes only
29 the performance or supplying of certain services, it may state the maxi-
30 mum amount to be expended annually for such services. The board shall
31 cause a copy of such order to be published at least once in the official
32 paper, the first publication thereof to be not less than ten nor more
33 than twenty days before the day set therein for the hearing as afore-
34 said, and shall also cause a copy thereof to be posted on the sign-board
35 of the town maintained pursuant to subdivision six of section thirty of
36 this chapter, not less than ten nor more than twenty days before the day
37 designated for the hearing as aforesaid. Such order may further state
38 such place other than the town clerk's office where the map, plan and
39 report may be examined in advance of the hearing, if the town board
40 determines that, in the public interest, some other additional place is
41 necessary or desirable. If a water district, sidewalk district, a public
42 parking district, a refuse and garbage district, aquatic plant growth
43 control district, WATERSHED PROTECTION IMPROVEMENT DISTRICT or beach
44 erosion control district is proposed, such order may contain a statement
45 that the cost of constructing the water system, sidewalks or acquiring
46 lands for public parking or for refuse and garbage purposes, or aquatic
47 plant growth control purposes or for beach erosion control OR FOR
48 WATERSHED PROTECTION IMPROVEMENT PURPOSES shall be assessed by the town
49 board in proportion as nearly as may be to the benefit which each lot or
50 parcel will derive therefrom. Prior to the publication of the order, the
51 board shall cause to be prepared, and file for public inspection with
52 the town clerk, a detailed explanation of how the estimated cost of
53 hook-up fees, if any, to, and the cost of the district or extension to,
54 the typical property and, if different, the typical one or two family
55 home, was computed.

56 S 8. This act shall take effect immediately.