

S T A T E O F N E W Y O R K

S. 7205

A. 9522

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

May 6, 2014

IN SENATE -- Introduced by Sen. LAVALLE -- 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 -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law and the public authorities 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 establish or extend in said town a sewer, drainage, water, water quality
5 treatment, park, public parking, lighting, snow removal, water supply,
6 sidewalk, a fallout shelter district or refuse and garbage district,
7 aquatic plant growth control district, ambulance district, watershed
8 protection improvement district, UNDERGROUND UTILITY IMPROVEMENT
9 DISTRICT, and in any town bordering upon or containing within its boundaries any navigable waters of this state, a harbor improvement district,
10 a public dock district, or beach erosion control district, and provide
11 improvements or services, or both, in any such district, wholly at the
12 expense of the district; but no water supply district shall be established or extended to include lands situate within the boundaries of a
13 water district. No such district shall be established or extended in a
14 city or in an incorporated village provided, however, that such a
15 district may be established or extended wholly or partly within an
16 incorporated village on consent of the village expressed in a local law,
17 ordinance or resolution, subject to a referendum on petition under
18 section twenty-four of the municipal home rule law or a permissive
19 referendum under article nine of the village law, as the case may be,
20 and except, in the case of a water quality treatment district, on

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

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1 consent of a village expressed in a local law or by resolution of the
2 board of trustees and not subject to any referendum.

3 S 2. Paragraph a of subdivision 1 of section 193 of the town law, as
4 amended by chapter 378 of the laws of 2012, is amended to read as
5 follows:

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

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

41 10-H. UNDERGROUND UTILITY IMPROVEMENT DISTRICT. AFTER AN UNDERGROUND
42 UTILITY IMPROVEMENT DISTRICT HAS BEEN ESTABLISHED, THE TOWN BOARD MAY
43 TAKE SUCH ACTION AS MAY BE REQUIRED TO ADOPT PLANS AND SPECIFICATIONS
44 AND ENTER INTO A CONTRACT OR CONTRACTS, OR TAKE SUCH OTHER ACTIONS AS
45 MAY BE REQUIRED WITH A PUBLIC UTILITY COMPANY, MUNICIPALITY, OR PUBLIC
46 AUTHORITY IN ORDER TO CONSTRUCT UNDERGROUND NEW PUBLIC UTILITY FACILI-
47 TIES OR CONVERT EXISTING OVERHEAD PUBLIC UTILITY FACILITIES TO UNDER-
48 GROUND FACILITIES. FOR THE PURPOSES OF THIS SUBDIVISION, "PUBLIC UTILITY
49 FACILITIES" SHALL INCLUDE THE TRANSMISSION AND DISTRIBUTION OF ELEC-
50 TRICAL ENERGY, TELEPHONE LINES, AND CABLE TELEVISION LINES, INCLUDING
51 POLES, WIRES, AND ALL ASSOCIATED STRUCTURES.

52 S 4. Subdivision 3 of section 202 of the town law, as amended by chap-
53 ter 378 of the laws of 2012, is amended to read as follows:

54 3. The expense of the establishment of a park, public parking, water,
55 lighting, snow removal, water supply, water, water storage and distrib-
56 ution, sidewalk, refuse and garbage, aquatic plant growth control

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

39 S 5. Subdivision 2 of section 202-b of the town law, as amended by
40 chapter 378 of the laws of 2012, is amended to read as follows:

41 2. The town board may, on behalf of a park, public parking, ambulance,
42 lighting, snow removal, refuse and garbage, public dock, watershed
43 protection improvement district, UNDERGROUND UTILITY IMPROVEMENT
44 DISTRICT, or beach erosion control district, and within the limitations
45 of section one hundred ninety-eight of this chapter, acquire additional
46 apparatus and equipment and replace obsolete, inadequate, damaged,
47 destroyed or worn-out apparatus and equipment, and it may construct
48 additional facilities and appurtenances thereto or reconstruct or
49 replace obsolete, inadequate, damaged, destroyed or worn-out facilities
50 and appurtenances thereto. Such expenditure shall be authorized in the
51 manner provided in subdivision one of this section, except that the map
52 and plan described by said subdivision one shall not be required. Howev-
53 er, nothing herein contained shall be construed to limit or supersede
54 the provisions of section seventy-two hundred three of the education
55 law.

1 S 6. Subdivision 1 of section 209-a of the town law, as amended by
2 chapter 378 of the laws of 2012, is amended to read as follows:

3 1. the term "improvement district" shall include only a sewer, waste-
4 water disposal, drainage, water, park, public parking, lighting, snow
5 removal, water supply, sidewalk, refuse and garbage, aquatic plant
6 growth control, or watershed protection improvement district, OR UNDER-
7 GROUND UTILITY IMPROVEMENT DISTRICT, or ambulance district in any town,
8 and, in any town bordering upon or containing within its boundaries any
9 navigable water of this state a public dock or beach erosion control
10 district;

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

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

1 S 8. Section 1020-g of the public authorities law is amended by adding
2 a new subdivision (o) to read as follows:

3 (O) (I) WHERE A TOWN IN THE SERVICE AREA OF THE AUTHORITY HAS ESTAB-
4 LISHED AN UNDERGROUND UTILITY IMPROVEMENT DISTRICT IN ORDER TO UNDER-
5 GROUND THE AUTHORITY'S PUBLIC UTILITY FACILITIES, PURSUANT TO ARTICLE
6 TWELVE OR TWELVE-A OF THE TOWN LAW, SUCH TOWN MAY PETITION THE AUTHORITY
7 TO CONTRIBUTE TO THE DISTRICT AT LEAST FIFTY PERCENT (50%) OF THE NET
8 INCREMENTAL COST OF IMPROVEMENTS FOR THE DISTRICT PURSUANT TO THE
9 PROVISIONS OF THIS SUBDIVISION. "NET INCREMENTAL COST" SHALL BE THE
10 DIFFERENCE BETWEEN THE TOTAL COST OF CONSTRUCTING PUBLIC UTILITY FACILI-
11 TIES UNDERGROUND AND THE TOTAL COST OF CONSTRUCTING SUCH FACILITIES
12 OVERHEAD. THE TERM "PUBLIC UTILITY FACILITIES" SHALL HAVE THE SAME MEAN-
13 ING AS IN SUBDIVISION TEN-H OF SECTION ONE HUNDRED NINETY-EIGHT OF THE
14 TOWN LAW. ANY STATE OR FEDERAL AID TO CONSTRUCT SUCH PUBLIC UTILITY
15 FACILITIES SHALL ALSO BE SUBTRACTED FROM NET INCREMENTAL COST.

16 (II) THE AUTHORITY AND THE TOWN SHALL HOLD A JOINT PUBLIC HEARING ON
17 THE PETITION OF THE TOWN.

18 (III) THE AUTHORITY AND THE TOWN SHALL DETERMINE WHETHER OR NOT FUND-
19 ING BY THE AUTHORITY IS IN THE GENERAL PUBLIC INTEREST.

20 (IV) IN DETERMINING GENERAL PUBLIC INTEREST, THE TOWN AND THE AUTHORI-
21 TY SHALL CONSIDER: (A) WHETHER THE PROJECT WILL AVOID OR ELIMINATE AN
22 UNUSUALLY HEAVY CONCENTRATION OF OVERHEAD ELECTRIC PUBLIC UTILITY FACIL-
23 ITIES, OR (B) WHETHER THE STREET OR ROADWAY IS EXTENSIVELY USED BY THE
24 GENERAL PUBLIC AND CARRIES A HEAVY VOLUME OF PEDESTRIAN OR VEHICLE TRAF-
25 FIC, OR (C) THE STREET OR ROADWAY PASSES THROUGH AN AREA WHICH IS OF
26 GENERAL PUBLIC INTEREST BASED UPON OPEN SPACE RESOURCES, FARMLAND PRES-
27 ERVATION RESOURCES, HISTORIC PRESERVATION RESOURCES, PARK AND RECREATION
28 RESOURCES, OR SCENIC OR AESTHETIC RESOURCES.

29 (V) THE AUTHORITY SHALL COMMIT TO PAY AT LEAST FIFTY PERCENT (50%) OF
30 THE NET INCREMENTAL COST OF THE IMPROVEMENTS OF THE DISTRICT, IF THE
31 AUTHORITY AND THE TOWN EACH FIND THAT ANY OF THE THREE STANDARDS IN
32 PARAGRAPH (IV) OF THIS SUBDIVISION ARE MET.

33 (VI) ANY DETERMINATION UNDER THIS SUBDIVISION SHALL BE SUBJECT TO
34 REVIEW PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
35 RULES.

36 S 9. This act shall take effect immediately.