

7632

I N   S E N A T E

May 21, 2014

---

Introduced by Sen. O'BRIEN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the public authorities law, and the state finance law, in relation to environmental restoration projects

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

1     Section 1. Paragraph (c) of subdivision 2 of section 56-0503 of the  
2 environmental conservation law, as amended by section 4 of part D of  
3 chapter 1 of the laws of 2003, is amended and a new subdivision 3 is  
4 added to read as follows:

5     (c) A provision that THE MUNICIPALITY SHALL ASSIST IN IDENTIFYING A  
6 RESPONSIBLE PARTY BY SEARCHING LOCAL RECORDS, INCLUDING PROPERTY TAX  
7 ROLLS, OR DOCUMENT REVIEWS, AND if, in accordance with the required  
8 departmental approval of any settlement with a responsible party, any  
9 responsible party payments become available to the municipality, before,  
10 during or after the completion of an environmental restoration project,  
11 which were not included when the state share was calculated pursuant to  
12 this section, the state assistance share shall be recalculated, and the  
13 municipality shall pay to the state, for deposit into the environmental  
14 restoration project account of the hazardous waste remedial fund estab-  
15 lished under section ninety-seven-b of the state finance law, the  
16 difference between the original state assistance payment and the recal-  
17 culated state share. Recalculation of the state share shall be done each  
18 time a payment from a responsible party is received by the municipality;

19     3. THE DEPARTMENT MAY UNDERTAKE AN ENVIRONMENTAL RESTORATION PROJECT  
20 ON BEHALF OF A MUNICIPALITY UPON REQUEST. IF THE DEPARTMENT UNDERTAKES  
21 THE PROJECT ON BEHALF OF THE MUNICIPALITY, THE STATE SHALL ENTER INTO AN  
22 AGREEMENT WITH THE MUNICIPALITY AND THE AGREEMENT SHALL REQUIRE THE  
23 MUNICIPALITY TO PERIODICALLY PROVIDE ITS SHARE TO THE STATE FOR COSTS  
24 INCURRED DURING THE PROGRESS OF SUCH PROJECT. THE MUNICIPALITY'S SHARE  
25 SHALL BE THE SAME AS WOULD BE REQUIRED UNDER SUBDIVISION ONE OF THIS  
26 SECTION. THE AGREEMENT SHALL INCLUDE ALL PROVISIONS SPECIFIED IN SUBDI-  
27 VISION TWO OF THIS SECTION AS APPROPRIATE. FOR PURPOSES OF PROJECTS  
28 SUBJECT TO AGREEMENTS UNDER THIS SUBDIVISION, ALL REFERENCES TO  
29 CONTRACTS IN THIS TITLE SHALL ALSO APPLY TO AGREEMENTS UNDER THIS SUBDI-  
30 VISION AS APPROPRIATE.

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

LBD14924-01-4

1 S 2. Subdivision 4 of section 56-0505 of the environmental conserva-  
2 tion law, as amended by section 5 of part D of chapter 1 of the laws of  
3 2003, is amended to read as follows:

4 4. After completion of such project, the municipality may use the  
5 property for public purposes or may dispose of it. If the municipality  
6 shall dispose of such property by sale to a responsible party, such  
7 party shall pay to such municipality, in addition to such other consid-  
8 eration, an amount of money constituting the amount of state assistance  
9 provided [to the municipality] under this title plus accrued interest  
10 and transaction costs and the municipality shall deposit that money into  
11 the environmental restoration project account of the hazardous waste  
12 remedial fund established under section ninety-seven-b of the state  
13 finance law.

14 S 3. Subdivisions 3 and 4 of section 56-0508 of the environmental  
15 conservation law, as added by section 7 of part D of chapter 1 of the  
16 laws of 2003, are amended to read as follows:

17 3. such temporary incidents of ownership by such taxing district shall  
18 also qualify it as being the owner of such property [for the purposes of  
19 obtaining] TO BE ELIGIBLE FOR funding from the state of New York for  
20 such environmental restoration investigation project under this article  
21 or for such funding from any source pursuant to any other state, feder-  
22 al, or local law, but such incidents of ownership shall not be suffi-  
23 cient to qualify it as the owner of such property for the purposes of  
24 holding it wholly or partially liable for any damages, past, present, or  
25 future from any release of any hazardous material, substance, or contam-  
26 inant into the air, ground, or water, unless such release was caused by  
27 such taxing district.

28 4. within thirty days of the completion of the environmental restora-  
29 tion investigation project and the receipt by the taxing jurisdiction of  
30 the final report of such investigation, such taxing jurisdiction shall  
31 file such report with the court on notice to the court and all other  
32 parties of record, and the stay of the foreclosure shall be lifted  
33 (unless lifted earlier by a prior court order), and all incidents of  
34 temporary ownership of the taxing jurisdiction that was awarded such  
35 taxing district, except any right [to receive funding] for the environ-  
36 mental restoration investigation project TO BE FUNDED, shall cease to  
37 exist, and nothing in this subdivision shall preclude the taxing juris-  
38 diction that conducted the environmental restoration investigation  
39 project or the taxing jurisdiction that commenced the foreclosure  
40 action, if it is a different taxing jurisdiction than the taxing juris-  
41 diction which conducted the investigation, from withdrawing the parcel  
42 from foreclosure pursuant to section eleven hundred thirty-eight of the  
43 real property tax law.

44 S 4. Subdivision 6 of section 56-0502 of the environmental conserva-  
45 tion law, as amended by section 2 of part D of chapter 577 of the laws  
46 of 2004, is amended to read as follows:

47 6. "State assistance", for purposes of this title, shall mean in the  
48 case of a contract authorized by subdivision one of section 56-0503 of  
49 this title, payments made to a municipality to reimburse the municip-  
50 ality for the state share of the costs incurred by the municipality to  
51 undertake an environmental restoration project OR IN THE CASE OF AN  
52 AGREEMENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 56-0503 OF THIS  
53 TITLE, COSTS INCURRED BY THE STATE TO UNDERTAKE AN ENVIRONMENTAL RESTO-  
54 RATION PROJECT BUT NOT REIMBURSED BY A MUNICIPALITY.

55 S 5. Section 56-0501 of the environmental conservation law, as added  
56 by chapter 413 of the laws of 1996, is amended to read as follows:

1 S 56-0501. Allocation of moneys. 1. Of the moneys received by the state  
2 from the sale of bonds pursuant to the Clean Water/Clean Air Bond Act of  
3 1996, two hundred million dollars (\$200,000,000) shall be available for  
4 disbursements for environmental restoration projects.

5 2. ENVIRONMENTAL RESTORATION PROJECTS MAY BE FUNDED USING THE PROCEEDS  
6 OF BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED EIGHTY-FIVE-Q OF THE  
7 PUBLIC AUTHORITIES LAW.

8 S 6. Subdivision 1 of section 1285-q of the public authorities law, as  
9 added by section 6 of part I of chapter 1 of the laws of 2003, is  
10 amended to read as follows:

11 1. Subject to chapter fifty-nine of the laws of two thousand, but  
12 notwithstanding any other provisions of law to the contrary, in order to  
13 assist the corporation in undertaking the administration and the financ-  
14 ing of hazardous waste site remediation projects for payment of the  
15 state's share of the costs of the remediation of hazardous waste sites,  
16 in accordance with title thirteen of article twenty-seven of the envi-  
17 ronmental conservation law and section ninety-seven-b of the state  
18 finance law, and for payment of state costs associated with the remedi-  
19 ation of offsite contamination at significant threat sites as provided  
20 in section 27-1411 of the environmental conservation law, AND FOR ENVI-  
21 RONMENTAL RESTORATION PROJECTS PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-  
22 SIX OF THE ENVIRONMENTAL CONSERVATION LAW, pursuant to capital appropri-  
23 ations made to the department of environmental conservation, the  
24 director of the division of budget and the corporation are each author-  
25 ized to enter into one or more service contracts, none of which shall  
26 exceed twenty years in duration, upon such terms and conditions as the  
27 director and the corporation may agree, so as to annually provide to the  
28 corporation in the aggregate, a sum not to exceed the annual debt  
29 service payments and related expenses required for any bonds and notes  
30 authorized pursuant to section twelve hundred ninety of this title. Any  
31 service contract entered into pursuant to this section shall provide  
32 that the obligation of the state to fund or to pay the amounts therein  
33 provided for shall not constitute a debt of the state within the meaning  
34 of any constitutional or statutory provision and shall be deemed execu-  
35 tory only to the extent of moneys available for such purposes, subject  
36 to annual appropriation by the legislature. Any such service contract or  
37 any payments made or to be made thereunder may be assigned and pledged  
38 by the corporation as security for its bonds and notes, as authorized  
39 pursuant to section twelve hundred ninety of this title.

40 S 7. Subdivision 3 of section 1285-q of the public authorities law, as  
41 added by section 6 of part I of chapter 1 of the laws of 2003, is  
42 amended to read as follows:

43 3. The maximum amount of bonds that may be issued for the purpose of  
44 financing hazardous waste site remediation projects AND ENVIRONMENTAL  
45 RESTORATION PROJECTS authorized by this section shall not exceed one  
46 billion two hundred million dollars and shall not exceed one hundred  
47 twenty million dollars for appropriations enacted for any state fiscal  
48 year, provided that the bonds not issued for such appropriations may be  
49 issued pursuant to reappropriation in subsequent fiscal years. No bonds  
50 shall be issued for the repayment of any new appropriation enacted after  
51 March thirty-first, two thousand thirteen for hazardous waste site reme-  
52 diation projects authorized by this section. Amounts authorized to be  
53 issued by this section shall be exclusive of bonds issued to fund any  
54 debt service reserve funds, pay costs of issuance of such bonds, and  
55 bonds or notes issued to refund or otherwise repay bonds or notes previ-  
56 ously issued. Such bonds and notes of the corporation shall not be a

1 debt of the state, and the state shall not be liable thereon, nor shall  
2 they be payable out of any funds other than those appropriated by this  
3 state to the corporation for debt service and related expenses pursuant  
4 to any service contracts executed pursuant to subdivision one of this  
5 section, and such bonds and notes shall contain on the face thereof a  
6 statement to such effect.

7 S 8. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b  
8 of the state finance law, as amended by section 4 of part I of chapter 1  
9 of the laws of 2003, are amended to read as follows:

10 2. Such fund shall consist of all of the following:

11 (a) moneys appropriated for transfer to the fund's site investigation  
12 and construction account; (b) all fines and other sums accumulated in  
13 the fund prior to April first, nineteen hundred eighty-eight pursuant to  
14 section 71-2725 of the environmental conservation law for deposit in the  
15 fund's site investigation and construction account; (c) all moneys  
16 collected or received by the department of taxation and finance pursuant  
17 to section 27-0923 of the environmental conservation law for deposit in  
18 the fund's industry fee transfer account; (d) all moneys paid into the  
19 fund pursuant to section 72-0201 of the environmental conservation law  
20 which shall be deposited in the fund's industry fee transfer account;  
21 (e) all moneys paid into the fund pursuant to section one hundred eight-  
22 y-six of the navigation law which shall be deposited in the fund's  
23 industry fee transfer account; (f) [all moneys paid into the fund by  
24 municipalities for repayment of landfill closure loans made pursuant to  
25 title five of article fifty-two of the environmental conservation law  
26 for deposit in the fund's site investigation and construction account;  
27 (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of  
28 the environmental conservation law into the fund's environmental resto-  
29 ration project account; [(h) all] (G) fees paid into the fund pursuant  
30 to section [72-0403] 72-0402 of the environmental conservation law which  
31 shall be deposited in the fund's industry fee transfer account; [(i)]  
32 (H) payments received for all state costs incurred in negotiating and  
33 overseeing the implementation of brownfield site cleanup agreements  
34 pursuant to title fourteen OF ARTICLE TWENTY-SEVEN of the environmental  
35 conservation law shall be deposited in the hazardous waste remediation  
36 oversight and assistance account; and [(j)] (I) other moneys credited or  
37 transferred thereto from any other fund or source for deposit in the  
38 fund's site investigation and construction account.

39 (f) to undertake such remedial measures as the department of environ-  
40 mental conservation may determine necessary due to environmental condi-  
41 tions related to the property subject to an agreement [to provide state  
42 assistance] OR CONTRACT under title five of article fifty-six of the  
43 environmental conservation law [that were unknown to such department at  
44 the time of its approval of such agreement which indicates that condi-  
45 tions on such property are not sufficiently protective of human health  
46 for its reasonably anticipated uses or due to information received, in  
47 whole or in part, after such department's approval of such agreement's  
48 final engineering report and certification], which indicates that such  
49 agreement's remedial activities are not sufficiently protective of human  
50 health for such property's reasonably anticipated uses; and, [respecting  
51 the monies in the environmental restoration project account in excess of  
52 ten million dollars,] shall provide state assistance under title five of  
53 article fifty-six of the environmental conservation law;

54 S 9. This act shall take effect immediately.