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

S. 6554 A. 9094

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

January 26, 2016

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, in relation to the Peconic Bay community preservation fund

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

Section 1. Subdivision 1 of section 64-e of the town law, as amended by chapter 551 of the laws of 2015, is amended to read as follows:

1. As used in this section, the following words and terms shall have the following meanings:

(a) "Peconic Bay region" means the towns of East Hampton, Riverhead, Shelter Island, Southampton and Southold.

(b) "Community preservation" shall mean and include any of the purposes outlined in subdivision four of this section.

(c) "Board" means the advisory board required pursuant to subdivision five of this section.

(d) "Fund" means the community preservation fund created pursuant to subdivision two of this section.

(e) "Water quality improvement project" means: (1) wastewater treatment improvement projects; (2) non-point source abatement and control program projects developed pursuant to section eleven-b of the soil and water conservation districts law, title 14 of article 17 of the environmental conservation law, section 1455b of the federal coastal zone management act, or article forty-two of the executive law; (3) aquatic habitat restoration projects; (4) pollution prevention projects[,]; and (5) the operation of the Peconic Bay National Estuary Program, as designated by the United States Environmental Protection Agency. Such projects shall have as their purpose the improvement of existing water quality to meet existing specific water quality standards. SUCH PROJECTS SHALL ALSO INCLUDE THOSE UNDERTAKEN BY A TOWN THROUGH A WATERSHED

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

LBD13374-02-6

PROTECTION IMPROVEMENT DISTRICT, CREATED PURSUANT TO ARTICLE TWELVE OR TWELVE-A OF THIS CHAPTER. Projects which have as a purpose to permit or accommodate new growth shall not be included within this definition.

(f) "Wastewater treatment improvement project" means the planning, design, construction, acquisition, enlargement, extension, or alteration of a wastewater treatment facility, including alternative systems to a sewage treatment plant or traditional septic system, to treat, neutralize, stabilize, eliminate or partially eliminate sewage or reduce pollutants in treatment facility effluent, including permanent or pilot demonstration wastewater treatment projects, or equipment or furnishings thereof. Stormwater collecting systems and vessel pumpout stations shall also be included within the definition of a wastewater TREATMENT improvement project.

(g) "Aquatic habitat restoration project" means the planning, design, construction, management, maintenance, reconstruction, revitalization, or rejuvenation activities intended to improve waters of the state of ecological significance or any part thereof, including, but not limited to ponds, bogs, wetlands, bays, sounds, streams, rivers, or lakes and shorelines thereof, to support a spawning, nursery, wintering, migratory, nesting, breeding, feeding, or foraging environment for fish and wildlife and other biota.

(h) "Pollution prevention project" means the planning, design, construction, improvement, maintenance or acquisition of facilities, production processes, equipment or buildings owned or operated by municipalities for the reduction, avoidance, or elimination of the use of toxic or hazardous substances or the generation of such substances or pollutants so as to reduce risks to public health or the environment, including changes in production processes or raw materials; such projects shall not include incineration, transfer from one medium of release or discharge to another medium, off-site or out-of-production recycling, end-of-pipe treatment or pollution control.

(i) "Stormwater collecting system" means systems of conduits and all other construction, devices, and appliances appurtenant thereto, designed and used to collect and carry stormwater and surface water, street wash, and other wash and drainage waters to a point source for discharge.

(j) "Vessel pumpout station" means a project for the planning, design, acquisition or construction of a permanent or portable device capable of removing human sewage from a marine holding tank.

(K) "REGIONAL WATER QUALITY IMPROVEMENT PLAN" MEANS A WATER QUALITY IMPROVEMENT PLAN ADOPTED PURSUANT TO STATE OR FEDERAL LAW, WHICH HAS AS ITS PURPOSE THE IMPROVEMENT OF WATER QUALITY IN ALL OR PART OF THE PECONIC BAY REGION, INCLUDING BUT NOT LIMITED TO: (1) THE COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN (CCMP) FOR THE PECONIC ESTUARY PROGRAM, PURSUANT TO THE NATIONAL ESTUARY PROGRAM (P.L. 100-4) UNDER THE CLEAN WATER ACT (P.L. 92-500), (2) THE COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN (CCMP) FOR THE LONG ISLAND SOUND ESTUARY PROGRAM, PURSUANT TO THE NATIONAL ESTUARY PROGRAM (P.L. 100-4) UNDER THE CLEAN WATER ACT (P.L. 92-500), (3) THE SOUTH SHORE ESTUARY RESERVE COMPREHENSIVE MANAGEMENT PLAN, PURSUANT TO ARTICLE FORTY-SIX OF THE EXECUTIVE LAW, AND (4) THE LONG ISLAND NITROGEN MANAGEMENT AND MITIGATION PLAN, PURSUANT TO CHAPTER 53 OF THE LAWS OF 2015, INCLUDING ANY AMENDMENTS OR UPDATES TO SUCH PLANS.

(L) "REGIONAL COORDINATING AUTHORITY" MEANS THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR HIS OR HER DESIGNEE, EXCEPT WITH REGARD TO WATER QUALITY IMPROVEMENT PROJECTS TO BE APPROVED PURSUANT TO THE SOUTH

SHORE ESTUARY RESERVE COMPREHENSIVE MANAGEMENT PLAN, WHERE THE "REGIONAL COORDINATING AUTHORITY" SHALL BE THE SECRETARY OF STATE OR HIS OR HER DESIGNEE.

S 2. Subdivision 3 of section 64-e of the town law, as amended by chapter 551 of the laws of 2015, is amended to read as follows:

3. The purposes of the fund shall be exclusively, (a) to implement a plan for the preservation of community character as required by this section, (b) to acquire interests or rights in real property for the preservation of community character within the town including villages therein in accordance with such plan and in cooperation with willing sellers, (c) to establish a bank pursuant to a transfer of development rights program consistent with section two hundred sixty-one-a of this chapter, (d) to provide a management and stewardship program for such interests and rights consistent with subdivisions nine and nine-a of this section and in accordance with such plan designed to preserve community character; provided that not more than ten percent of the fund shall be utilized for the management and stewardship program, and (e) to implement water quality improvement projects in accordance with a plan to preserve community character. A maximum of twenty (20) percent of the fund may be utilized for the implementation of water quality improvement projects; provided that where such water quality improvement funds are utilized for the operation of the Peconic Bay National Estuary Program, the use of such funds shall only be utilized to match federal, state, county, or other public or private funds on a dollar for dollar basis, not to exceed ten (10) percent of the annual amount appropriated for water quality improvement projects. FURTHER, NOT LESS THAN EIGHTY PERCENT OF THE ANNUAL AMOUNT APPROPRIATED FOR WATER QUALITY IMPROVEMENT PROJECTS, EXCLUDING FUNDS UTILIZED FOR THE OPERATION OF THE PECONIC BAY NATIONAL ESTUARY PROGRAM, SHALL BE UTILIZED FOR WASTEWATER TREATMENT IMPROVEMENT PROJECTS. If the implementation of the community preservation project plan, adopted by a town board, as provided in subdivision six of this section, has been completed, and funds are no longer needed for the purposes outlined in this subdivision, then any remaining monies in the fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes of this section.

S 3. Section 64-e of the town law is amended by adding a new subdivision 6-a to read as follows:

6-A. IN ADDITION TO THE REQUIREMENTS OF SUBDIVISION SIX OF THIS SECTION, NO MONIES FROM THE FUND MAY BE EXPENDED FOR A WATER QUALITY IMPROVEMENT PROJECT BY A TOWN, UNLESS SUCH PROJECT HAS BEEN CERTIFIED BY THE REGIONAL COORDINATING AUTHORITY PURSUANT TO THIS SECTION. IN MAKING SUCH CERTIFICATION, THE REGIONAL COORDINATING AUTHORITY SHALL CONSIDER THE FOLLOWING IN MAKING SUCH CERTIFICATION: (A) THE PROPOSED WATER QUALITY IMPROVEMENT PROJECT SHALL BE FOR THE PLANNING, DESIGN, OR IMPLEMENTATION OF A CAPITAL PROJECT WITH A PROBABLE USEFUL LIFE OF AT LEAST FIVE (5) YEARS, PURSUANT TO THE STATE LOCAL FINANCE LAW, (B) THE PROPOSED WATER QUALITY IMPROVEMENT PROJECT IS CONSISTENT WITH ONE OR MORE REGIONAL WATER QUALITY IMPROVEMENT PLANS, (C) SUCH PROJECT ADVANCES MEASURABLE WATER QUALITY IMPROVEMENT FOR THE PECONIC BAY REGION, (D) SUCH PROJECT COMPLIES WITH SPECIFIC EXISTING OR PROPOSED STATE OR REGIONAL WATER QUALITY STANDARDS OR TARGETS, (E) IN THE CASE OF AQUATIC HABITAT RESTORATION PROJECTS, THE PROJECT WILL PROMOTE AQUATIC HABITAT RESTORATION, AND (F) IN THE CASE OF POLLUTION PREVENTION PROJECTS, THE PROJECT WILL REDUCE, AVOID, AND ELIMINATE THE USE OF TOXIC OR HAZARDOUS SUBSTANCES, OR THE GENERATION OF SUCH SUBSTANCES. THE REGIONAL COORDI-

NATING AUTHORITY SHALL NOT CERTIFY PROJECTS WHICH ACCOMMODATE NEW OR ADDITIONAL GROWTH.

S 4. Where a town adopts the provisions of this act, said action shall be implemented by local law subject to a mandatory referendum pursuant to section 23 of the municipal home rule law.

S 5. This act shall take effect immediately.