

# STATE OF NEW YORK

5547

2019-2020 Regular Sessions

## IN ASSEMBLY

February 13, 2019

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to the election by certain counties to withdraw from the metropolitan commuter transportation district; and in relation to permitting the counties of Orange and Rockland to make such election

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1279-b of the public authorities law, as added by chapter 669 of the laws of 1986, the opening paragraph of subdivision 1, the opening paragraph of paragraph (a) of subdivision 1 and subdivisions 3 and 5 as amended by chapter 670 of the laws of 1986, is amended to read as follows:

§ 1279-b. Transition--election to withdraw from the metropolitan commuter transportation district. 1. The counties of [~~Dutchess,~~] Orange and Rockland shall have an option to withdraw from the metropolitan commuter transportation district and have such withdrawal take effect on either: (a) [~~January~~] April first, [~~nineteen hundred eighty-seven~~] two thousand twenty. If any such county plans to withdraw from the district on [~~January~~] April first, [~~nineteen hundred eighty-seven~~] two thousand twenty, it shall (i) no later than seventy-five days after the effective date of this section, furnish the commissioner of transportation, and chairman of the authority and the other counties which have an option to withdraw, a resolution adopted by the county legislature providing notice of intent to withdraw, (ii) on or before [~~October~~] January first, [~~nineteen hundred eighty-six~~] two thousand nineteen, furnish to the commissioner of transportation, the chairman of the authority and other counties which have an option to withdraw, a resolution adopted by the county legislature providing for a public transportation plan. For the purposes of this section, a "public transportation plan" shall mean a plan that maintains adequate and continuous public transportation

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

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1 services from the withdrawing county to the city of New York or any  
2 terminus previously served, provides a reasonable level of rail passen-  
3 ger service, provides a schedule for implementing such service, protects  
4 the public investment in the rail transportation system and any other  
5 criteria deemed necessary by the commissioner of transportation. Such  
6 public transportation plan shall include, but not be limited to, an  
7 agreement by which such county shall be entitled to lease the facilities  
8 and services comprising such rail transportation system at fair market  
9 value and under such terms and conditions to be determined as set forth  
10 in subdivision six of this section. Prior to withdrawal pursuant to this  
11 paragraph or paragraph (b) of this subdivision, a county must receive  
12 approval of its public transportation plan pursuant to paragraph (c) of  
13 this subdivision, (iii) on or before December fifteenth, [~~nineteen~~  
14 ~~hundred eighty-six~~] two thousand nineteen, furnish the commissioner of  
15 transportation, a copy of an agreement with the authority or an operator  
16 of rail passenger service for the provision of rail passenger service to  
17 and from such county and the city of New York or any terminus previously  
18 served. If such agreement has not been concluded by the respective  
19 parties, and a party has exercised its rights pursuant to subdivision  
20 six of this section, the approval of the commissioner of transportation  
21 shall not be required and the agreement or order set forth in subdivi-  
22 sion six of this section, shall determine the terms and conditions of  
23 such withdrawal. If a county planning to withdraw on [~~January~~] April  
24 first, [~~nineteen hundred eighty-seven~~] two thousand twenty is unable to  
25 withdraw because it could not meet the requirements of this paragraph,  
26 it may elect to withdraw pursuant to paragraph (b) of this subdivision  
27 hereafter.

28 (b) January first, [~~nineteen hundred eighty-eight~~] two thousand twen-  
29 ty-one or January first, [~~nineteen hundred eighty-nine~~] two thousand  
30 twenty-two. If any such county plans to withdraw on either January  
31 first, [~~nineteen hundred eighty-eight~~] two thousand twenty-one or Janu-  
32 ary first, [~~nineteen hundred eighty-nine~~] two thousand twenty-two, it  
33 shall (i) no later than ninety days after the first of January of the  
34 year immediately preceding the year in which such county plans to with-  
35 draw from the district, furnish the commissioner of transportation, the  
36 chairman of the authority and the other counties which have an option to  
37 withdraw, a resolution adopted by the county legislature providing  
38 notice of intent to withdraw from the district, (ii) no later than one  
39 hundred twenty days after the first of January of the year immediately  
40 preceding the year in which such county plans to withdraw from the  
41 district furnish to the commissioner of transportation, the chairman of  
42 the authority and the counties which have an option to withdraw a resol-  
43 ution adopted by the county legislature providing a public transporta-  
44 tion plan as described in this section, (iii) on or before October first  
45 of the year immediately preceding the year in which such county plans to  
46 withdraw from the district, furnish to the commissioner a copy of an  
47 agreement with the authority or an operator of rail passenger service  
48 for the provision of rail passenger service to and from such county and  
49 the city of New York or any terminus previously served. If such agree-  
50 ment has not been concluded by the respective parties, and a party has  
51 exercised its rights pursuant to subdivision six of this section, the  
52 approval of the commissioner of transportation shall not be required and  
53 the agreement or order set forth in such subdivision six shall determine  
54 the terms and conditions of such withdrawal.

55 (c) No later than thirty days after receipt of the public transporta-  
56 tion plan the commissioner of transportation shall, in writing, either

1 approve such plan as conforming with the requirements heretofore  
2 described or disapprove such plan as failing to meet such requirements  
3 and the reasons therefor. Disapproval of a plan shall not prohibit a  
4 county from resubmitting a public transportation plan and such resubmit-  
5 ted plan shall be approved or disapproved no later than fifteen days  
6 after receipt by the commissioner of transportation. The public trans-  
7 portation plan shall be subject to any state or federal public hearing  
8 requirements which the authority would be subject to if the authority  
9 made the changes proposed by such plan.

10 (d) Any such county which plans to withdraw from the district must  
11 meet the requirements of this section prior to the effective date of  
12 withdrawal, and no withdrawal for the purposes of this section shall  
13 take effect unless such county furnishes the resolutions and agreement  
14 prior to the effective date of withdrawal.

15 2. The authority and any subsidiary corporation of the authority shall  
16 enter into an agreement or agreements with a county that plans to with-  
17 draw from the district to transfer and assign to such county all author-  
18 ity and subsidiary railroad facilities and operations, rights and obli-  
19 gations, and contract rights and obligations, including operating  
20 contract rights and obligations, which are owned, operated, maintained  
21 or used directly or by contract or which are otherwise involved in the  
22 provision of railroad services to such counties. Such agreement shall  
23 provide, in the event a facility, operation, right or obligation is  
24 necessary and material to the provision of rail passenger service in the  
25 district or is not assignable under applicable bond covenants or  
26 contracts or the parties agree that it should not be assigned, that the  
27 authority or subsidiary thereof shall continue to hold and be responsi-  
28 ble for such facility, operation, right or obligation and that such  
29 county shall reimburse to the authority that portion of the cost to the  
30 authority or subsidiary of its retention of such facility, operation,  
31 right or obligation that is allocable ~~to~~ within such county. If the  
32 parties agree that the authority or subsidiary thereof shall operate the  
33 railroad facilities in a county after the effective date of such coun-  
34 ty's withdrawal, the agreement also shall provide for the terms and  
35 conditions of the operation of such service.

36 3. Within forty-five days of the effective date of this section, the  
37 authority and any subsidiary corporation of the authority shall provide  
38 to the counties of ~~[Dutchess,]~~ Orange and Rockland a written statement,  
39 including cost estimates and the useful life, if any, of all of its  
40 facilities, operations, rights and obligations relating to the provision  
41 of rail service in such counties.

42 4. The authority and any subsidiary corporation of the authority is  
43 authorized to enter into an agreement or agreements with a county that  
44 plans to withdraw from the district, pursuant to which the authority or  
45 subsidiary thereof will provide technical assistance to such county  
46 prior to, during and after the withdrawal, with respect to the transfer  
47 of ownership, operation, maintenance and use of railroad facilities  
48 within such county. Such agreement may provide that the county reimburse  
49 the authority or its subsidiary for the cost to the authority and its  
50 subsidiary for the provision of such technical assistance.

51 5. The authority shall have no obligation to undertake or continue any  
52 project or part thereof in a current or future capital program plan  
53 which pertains to railroad facilities within or services to a county  
54 that withdraws from the district on or after such date of withdrawal nor  
55 shall the authority enter into any contract for a project or part there-  
56 of which would increase liabilities pursuant to subdivision ~~[six]~~ six-a

1 of this section in a county after such county notifies the authority of  
2 its intent to withdraw as provided in subdivision one of this section,  
3 provided, however, that if the authority has executed a contract for the  
4 effectuation of a project or part thereof in a capital program plan in  
5 such county, it shall be assigned to such county in accordance with  
6 subdivision two of this section, unless the parties agree that it shall  
7 not be assigned and that the authority or its subsidiary shall continue  
8 to be responsible therefor, in which event the county shall reimburse  
9 the authority or its subsidiary in accordance with the provisions of  
10 subdivision two of this section.

11 6. Should the counties of Orange or Rockland seek to withdraw from the  
12 district pursuant to this section, any such county and the authority,  
13 and/or, if appropriate any subsidiary corporation of the authority shall  
14 negotiate in good faith any agreement required by this section for with-  
15 drawal from the district. Such negotiations shall commence not later  
16 than fifteen days after the public transportation plan prepared by any  
17 such county has been submitted by such county to the authority, and/or,  
18 if appropriate, a subsidiary authority. In no event shall a county be  
19 required to negotiate with both the authority and a subsidiary authori-  
20 ty. The negotiations conducted by and the actions of the authority or  
21 subsidiary authority shall be binding. If after sixty days from the  
22 commencement of such negotiations or at any time thereafter the authori-  
23 ty or any subsidiary corporation of the authority and a county are  
24 unable to reach an agreement required by this section for such with-  
25 drawal, either party may make application to a justice of the supreme  
26 court presiding in the counties of Orange or Rockland for appointment of  
27 a special referee. Each party shall submit to the justice a list  
28 containing the names and qualifications of five persons to serve as  
29 special referee. The justice shall select one person from among the  
30 names submitted by the parties to serve as special referee. The special  
31 referee shall mediate the negotiations for withdrawal for a period of no  
32 longer than sixty days. If, at the end of said sixty day period, the  
33 parties are not able to reach agreement, the special referee shall,  
34 within thirty days thereafter, recommend the terms of the withdrawal to  
35 the justice. The justice shall review the recommendations of the referee  
36 and the positions of the parties thereon and shall issue an order  
37 setting forth the terms of the withdrawal. Notwithstanding the entry of  
38 such order, a county shall have fifteen days from the entry of such  
39 order to terminate such proceeding. Upon the timely exercise of such  
40 right to terminate, such proceeding shall be deemed null and void and of  
41 no further effect. If a county has not exercised its right to terminate,  
42 said order shall be subject to appellate review in accordance with the  
43 civil practice law and rules, provided that any appeal from the order  
44 shall be granted expedited status.

45 6-a. Any county which withdraws from the district shall reimburse to  
46 the authority or its subsidiary, within the time period agreed to by the  
47 parties, any capital expenditures heretofore undertaken by the authority  
48 or its subsidiary for railroad facilities only within such county which  
49 were financed by commuter railroad revenue bonds issued by the metropol-  
50 itan transportation authority pursuant to section twelve hundred sixty-  
51 nine of this ~~article~~ title and are assigned to such county in accord-  
52 ance with the provisions of subdivision two of this section.

53 ~~[7-]~~ 6-b. The obligations of a county that withdraws from the district  
54 to reimburse the authority and any subsidiary corporation of the author-  
55 ity for the costs of operation, maintenance and use of passenger  
56 stations pursuant to section twelve hundred seventy-seven of this ~~arti-~~

1 ~~ele]~~ title, shall continue for any such costs incurred up to the effec-  
2 tive date of the county's withdrawal from the district and for costs  
3 incurred thereafter that result from acts preceding such withdrawal, and  
4 the applicability of the payment provisions and procedures of such  
5 section twelve hundred seventy-seven to such county shall continue ther-  
6 eafter with respect to the aforesaid costs.

7 ~~[8-]~~ 7. In the event of a county's failure to make payment of any  
8 monies determined by the authority to be owed and due it or any subsid-  
9 iary corporation of the authority pursuant to the terms of any agreement  
10 entered into pursuant to this section, the authority is authorized to  
11 recover such payments in the same manner as in section twelve hundred  
12 seventy-seven of this ~~[article]~~ title and the state comptroller shall  
13 withhold and pay monies to the authority in accordance with the proce-  
14 dures set forth in that section.

15 ~~[9-]~~ 8. The term of office of any resident of a county that withdraws  
16 from the district under this section, as a member of the board of the  
17 authority, the Metro-North rail commuter council or the management advi-  
18 sory board, which is based upon residence in such county, shall termi-  
19 nate upon the county's withdrawal and the office shall be deemed vacant  
20 and filled in the manner provided by law.

21 ~~[10-]~~ 9. The provisions of this section and all agreements undertaken  
22 in accordance herewith shall be subject to the rights of the holders of  
23 any outstanding bonds or notes issued by the authority.

24 § 2. This act shall take effect immediately.