STATE OF NEW YORK

10482

IN ASSEMBLY

May 27, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Zebrowski) -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to expanding the Rockland County Solid Waste Authority's purposes, powers, and responsibilities to include providing animal management services through a wholly-owned subsidiary; and to amend the agriculture and markets law, in relation to public authorities providing shelter services for the care of unwanted animals

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

Section 1. Section 2053-b of the public authorities law, as added by chapter 434 of the laws of 1993, is amended to read as follows:

§ 2053-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. **"Animal shelter" shall mean any facility, building, or structure, where temporary or permanent housing and care is provided to stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals.**

2. "Animal management services" shall mean any and all services provided to promote animal care and to protect public health and safety, including, but not limited to the following services: providing housing and care for stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals in an animal shelter; the processing and disposal of animal waste; the disposal of dead wildlife removed from roadways following wildlife-vehicle collisions; providing animal control; and any other similar service related thereto.

3. "Authority" shall mean the public benefit corporation created by section two thousand fifty-three-c of this title, known as the Rockland county solid waste management authority **and shall also hereby be known as Rockland Green**.

[~~2.~~] **4.** "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title and the provisions of this title relating to bonds and bondholders and shall

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

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apply with equal force and effect to notes and obligations and noteholders and obligation holders, respectively, unless the context otherwise clearly requires.

[~~3.~~] **5.** "Construction" shall mean the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of a solid waste management facility **or animal shelter**; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto subject to the provisions of section two thousand fifty-three-f of this title.

[~~4.~~] **6.** "Cost," as applied to any project, shall mean and include the cost of construction, the cost of the acquisition of all property, including real property and other property, both real and personal and improved and unimproved, subject to the provisions of section two thousand fifty-three-f of this title, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of relocating tenants or other occupants of the buildings or structures on such land, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all systems, facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant, legal and other professional services, the cost of lease guarantee or bond insurance and the cost of other expenses necessary or incidental to the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds, the financing of the placing of any project in operation and reimbursement to the county, any municipality, any state agency, the state, the United States government or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

[~~5.~~] **7.** "County" shall mean the county of Rockland.

[~~6.~~] **8.** "Governing body" shall mean the members of the authority constituting and acting as the governing body of the authority.

[~~7.~~] **9.** "Municipality" shall mean any county, city, town, village, district or any combination thereof.

[~~8.~~] **10.** "Person" shall mean any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

[~~9.~~] **11.** "Project" shall mean any solid waste management facility **or animal shelter**, the planning, development, financing, construction, operation or maintenance of which is authorized to be undertaken in whole or in part by the authority pursuant to this title.

[~~10.~~] **12.** "Real property" shall mean lands, structures, franchises and interests in land, waters, lands underwater, riparian rights and air rights and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

[~~11.~~] **13.** "Resource recovery" shall mean the separation, extraction and recovery of usable materials, energy or heat from solid waste

through source separation, recycling centers, composting, combustion or other programs, projects or facilities.

[~~12.~~] **14.** "Revenues" shall mean all rates, fees, rents, charges, receipts and other income derived by the authority from its operations.

[~~13.~~] **15.** "Solid waste" shall mean all putrescible and [~~nonputrescible~~] **non-putrescible** solid wastes, including, but not limited to, materials or substances which are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, or which are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or which are manufacturing by-products, including, but not limited to, garbage, refuse, industrial, commercial and agricultural waste sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law or any scrap or other material of value held for purposes of materials recycling other than materials designated as recyclables, pursuant to section one hundred twenty-aa of the general municipal law.

[~~14.~~] **16.** "Solid waste management facility" or "facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the receiving, transporting, storage, processing, treatment, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling centers, material recovery facilities, mixed waste processing facilities, household hazardous waste facilities, transfer stations, shredding facilities, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes or manufacturing or enhancing the value of materials or commodities recovered from solid waste, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment, source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the environmental conservation law.

[~~15.~~] **17.** "Solid waste management plan" shall mean the Rockland county integrated solid waste management plan as it may be adopted, amended and supplemented from time to time in accordance with section 27-0107 of the environmental conservation law.

[~~16.~~] **18.** "Source separation" shall mean the segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

[~~17.~~] **19.** "State" shall mean the state of New York.

§ 2. Subdivision 1 of section 2053-c of the public authorities law, as added by chapter 434 of the laws of 1993, is amended to read as follows:

1. Upon compliance with the requirements of subdivision seven of this section, a corporation known as the Rockland county solid waste management authority shall be deemed to have been created hereby for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation. **In order to be more consistent with the authority's goals, mission and objectives, the authority shall also be known as Rockland Green.**

§ 3. Subdivisions 11 and 22 of section 2053-e of the public authorities law, as added by chapter 434 of the laws of 1993, are amended to read as follows:

11. With the consent of the county executive, to use officers or employees of the county and to pay a [~~property~~] **proper** portion of the compensation or costs for the services for such officers or employees.

22. **The authority may acquire, hold, own, lease, establish, construct, effectuate, operate, maintain, renovate, improve, extend or repair any of its facilities through, and cause any one or more of its powers, duties, functions or activities to be exercised or performed by, no more than one wholly-owned subsidiary corporation of the authority for the sole purposes of operating an animal shelter and providing animal management services on behalf of one or more municipalities located in the county of Rockland pursuant to the agriculture and markets law. Such subsidiary corporation shall be deemed an animal shelter for the purposes of registration, inspection or any oversight required by law or regulation by the department of agriculture and markets. The authority may transfer to or from any such corporation, or between such corporations, any moneys, real property or other property or the services of any officers, employees or consultants for any of the purposes of this title. The directors or members of such subsidiary corporation shall be the same persons holding the offices of members of the authority. Such subsidiary corporation and any of its property, functions and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. Such subsidiary corporation shall be subject to the restrictions and limitations to which the authority may be subject. Such subsidiary corporation shall be subject to suit in accordance with section two thousand fifty-three-u this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.**

23. To do all things necessary or convenient to carry out the powers expressly given in this title.

§ 4. Section 2053-g of the public authorities law, as added by chapter 434 of the laws of 1993, is amended to read as follows:

§ 2053-g. Charges by the authority; method of collection. **1.** The authority may fix and collect, on any equitable basis, rates, rentals, fees and other charges for the use of facilities of or services or commodities provided by the authority **or any subsidiary**, including the availability of any of the foregoing from the authority. Such rates, rentals, fees and other charges may be fixed and collected from any person to whom such facilities, services or commodities are provided by or made available from the authority, including generators of solid waste and owners of real property upon which solid waste is generated. Such rates, rentals, fees and other charges may be the same or different for each classification of user or service recipient and may, by way of example, reflect the source and composition of solid waste and may provide for fee reductions to the users or service recipients in propor-

tion to waste generated or to reflect participation in source separation programs. In any instance where the county is or would be required by law, with respect to solid waste management, to conduct a public hearing in connection with a user or rate, rental, fee or other charge, the authority shall not establish, fix, or revise any classification of user or service recipient, rate, rental, fee or other charge unless and until the authority has held a public hearing at which interested persons have had an opportunity to be heard concerning the same; provided however, that if the county has conducted a public hearing in connection with such rate, rental, fee or other charge, the authority shall not be required to hold a public hearing. Notice of any such public hearing shall be published at least ten days before the date set therefor, in at least one newspaper of general circulation in the county. Such notice shall set forth the date, time and place of such hearing and shall include a brief description of the matters to be considered at such meeting. A copy of the notice shall be available for inspection by the public. At any such hearing, any interested persons shall have an opportunity to be heard concerning the matters under consideration. Any decision by the authority at such public hearing shall be in writing and be made available in the office of the authority for public inspection during regular office hours.

2. All rates, rentals, fees and other charges for the use of the facilities of, or services provided or made available by, the authority and billed directly by the authority to the user or service recipient pursuant to a classification of users or service recipients adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or made available, as and from the first date fixed for payment of such rates, rentals, fees and other charges. Any such lien shall take precedence over all other liens or encumbrances, except taxes or assessments. The treasurer of the authority shall prepare and transmit to the respective legislative body of each municipality, on or before the first day of December in each year, a list of those properties within each respective municipality using such facilities or for which such services were provided or made available and from which the payment of rates, rentals, fees and other charges are in arrears for a period of thirty days or more after the last day fixed for payment of such rates, rentals, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest computed to December thirty-first of that year. Each governing body shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the [~~heading~~] **headings** "solid waste disposal charge" **and "animal management charge", as appropriate**. Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to the treasurer of the authority. Alternatively, the legislative body of any municipality which provides solid waste collection service to all or a portion of the properties within its boundaries using municipally owned and operated collection vehicles may execute an agreement with the authority to collect and be responsible for the collection of, on behalf of the authority, any overdue or delinquent rates, rentals, fees or other charges and such municipality shall have the power to pay directly to the authority such overdue or delinquent rates, rentals, fees and other charges whether or not they are actually collected from the users or

service recipients of such municipality. All of the provisions of the tax law of the state governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

§ 5. Section 114 of the agriculture and markets law, as added by chapter 220 of the laws of 1978 and as renumbered by section 9 of part T of chapter 59 of the laws of 2010, subdivision 2 as amended by chapter 714 of the laws of 1980, is amended to read as follows:

§ 114. Pounds and shelters. 1. Each town and city, and each village in which licenses are issued shall, and any other village and any county may, establish and maintain a pound or shelter for dogs.

2. In lieu of or in addition to establishing and maintaining such pound or shelter, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for pound or shelter services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, **or with a public authority providing shelter services or its subsidiary that is wholly created for the sole purpose of providing such services,** or shall establish and maintain, jointly or with one or more other municipalities, a pound or shelter.

§ 6. Subdivision 4 of section 400 of the agriculture and markets law, as amended by chapter 168 of the laws of 2017, is amended to read as follows:

4. "Pet Dealer" means any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; provided that it shall not include the following:

(a) Any breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder's residential premises;

(b) Any municipal pound or shelter dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged, established and maintained pursuant to subdivision one of section one hundred fourteen of this chapter; [~~and~~]

(c) Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is registered with the department pursuant to section four hundred eight of this article**; and**

(d) Any public authority providing shelter services for the care of unwanted animals or its subsidiary that is wholly created for the sole purpose of providing such services.

§ 7. Subdivision 1 and the opening paragraph of subdivision 2 of section 408 of agriculture and markets law, as added by chapter 168 of the laws of 2017, are amended to read as follows:

1. Any person eligible for exemption from the definition of pet dealer pursuant to paragraph (c) **and (d)** of subdivision four of section four hundred of this article shall be registered by the department pursuant

to the provisions of this section. Such registration shall be renewable annually and be accompanied by a fee of one hundred dollars.

Application for registration as set forth in this section shall be made annually to the commissioner on a form prescribed by the commissioner. The applicant shall satisfy the commissioner of his or her character and responsibility and shall set forth such information as the commissioner shall require, including but not limited to the following**, provided, however a public authority shall not be required to provide the information required by paragraphs (a), (b) and (c) of this subdivision**:

§ 8. This act shall take effect immediately.