STATE OF NEW YORK

8039

2021-2022 Regular Sessions

IN ASSEMBLY

June 8, 2021

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT to amend the county law and the general municipal law, in relation to extending the authority of the county of Suffolk to form a county-wide sewer and wastewater management district

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

Section 1. The county law is amended by adding a new section 256-b to read as follows:

§ 256-b. Suffolk county wastewater management district. 1. Intent. The county of Suffolk, with a population of one million five hundred thousand persons, has in excess of three hundred eighty thousand existing onsite systems, comprised mostly of cesspools and leaching pools, with two hundred nine thousand of these onsite systems in environmentally sensitive areas which could benefit from nitrogen-reducing technologies. The United States Environmental Protection Agency recognizes Long Island as having a sole source aquifer system for its drinking water supply. Suffolk county has an imminent need to preserve this valuable water resource by reducing the amount of nitrogen discharged into the groundwater by traditional onsite residential sanitary systems.

The Suffolk county subwatershed wastewater management plan, certified by the department of environmental conservation as a Nine Elements Watershed (9E) plan, has documented the devastating effects of high levels of nitrogen pollution, not only on the drinking water quality, but also on coastal ecosystems, dissolved oxygen, water clarity, eelgrass, wetlands, shellfish, coastal resilience and in triggering harmful algal blooms. The Suffolk county subwatershed wastewater management plan is a long-term plan to address the need for wastewater treatment infrastructure throughout the county comprehensively over a period of fifty years, which has delineated the source and concentration of

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

LBD11690-01-1

nitrogen loading in one hundred ninety-one subwatersheds throughout the county, and has established nitrogen reduction goals for each watershed.

For many areas of the county, installing or connecting sewers is not a practical or cost-effective method of treating wastewater. For that reason, a hybrid approach that relies on sewering where feasible, and the replacement of cesspools and septic systems with innovative/alternative onsite wastewater treatment systems is prescribed in the Suffolk county subwatershed wastewater management plan. The consolidation of any or all of the twenty-six county sewer districts as well as unsewered areas of the county into a county-wide wastewater management district to allow for comprehensive planning and management, and the establishment of a steering committee representative of the diverse geographical areas of the county to monitor progress, and to ensure that allocation of resources is consistent with the goals of the Suffolk county subwatershed wastewater management plan will be a benefit to the residents of the county and will allow for the implementation of a much needed integrated long-term wastewater solution for the county.

2. Power. Notwithstanding the provisions of any general, special or local law to the contrary, including this article, the county legislature of Suffolk county is hereby authorized to create a Suffolk county wastewater management district which shall include all powers of a sewer district and a wastewater disposal district (the "district") as enumerated in section two hundred fifty of this article and as set forth in this subdivision, in accordance with the procedure contained in this section. In addition to the powers as enumerated within section two hundred fifty of this article, the district shall have the power, as determined by the county legislature, to: (a) recommend and establish one or more zones of assessment within the district based upon territorial boundaries, the method of wastewater collection, treatment and disposal existing or proposed, or both, and make changes to such zones of assessments; (b) acquire interests in real property, including easements on residential parcels, necessary for the installation and maintenance of district facilities; (c) prioritize district projects in accordance with the Suffolk county subwatershed wastewater plan adopted by the county legislature, and any amendments thereto; and (d) distribute grant proceeds within the district in accordance with the goals established in the Suffolk county subwatershed wastewater plan.

3. Boundaries. The boundaries of the district shall coincide with the territorial boundaries of the county of Suffolk.

4. County agency review and report. The county legislature shall direct the county agency, appointed or established pursuant to section two hundred fifty-one of this article, to review and report thereon to the county legislature on the creation of the district and the merger therewith of any or all existing county sewer districts in accordance with this section and such other details as may be directed by the county legislature consistent with this article. When the agency has caused such report to be prepared, it shall transmit it to the county legislature. Upon receipt of the report, the county legislature shall call a public hearing pursuant to subdivision five of this section to create a Suffolk county wastewater management district in accordance with this section. Such report shall be filed in the office of the clerk of the legislature of Suffolk county.

5. Resolution. The county legislature of Suffolk county shall adopt a resolution calling for a public hearing regarding the proposed creation of the district.

6. Notice of hearing. The clerk of the county legislature shall give notice of the hearing described in subdivision five of this section not less than ten nor more than twenty days before the day set therein for the hearing, in the official newspapers of the county designated pursuant to subdivision two of section two hundred fourteen of this chapter, and if at least one of the official newspapers not be of county-wide circulation, notice of the hearing shall also be published in a newspaper having county-wide circulation. The notice of hearing shall contain whether the proposal for the district contains one or more zones of assessment and the description of each whether based on territorial boundaries, the method of sewage collection, treatment and disposal, or both, at the time of creation; whether the district shall include the merger of any or all Suffolk county sewer districts or any privately sewered community into it at the time of its creation; whether to assess upon each lot or parcel of land subject to taxation and located within the district and the amount of money required to be paid by the typical one or two family home within each zone of assessment, including the annual expenses of operation and maintenance costs of the district and the sums sufficient to pay the annual installment of principal of, and interest on, obligations for improvements of the district; the basis for the future assessment of all such expenses of the district by one or more of the following methods: (a) special assessment as that term is defined in subdivision fifteen of section one hundred two of the real property tax law; (b) special ad valorem levy as that term is defined in subdivision fourteen of section one hundred two of the real property tax law; and (c) sewer rents as provided by article fourteen-F of the general municipal law; and the establishment by separate local law of a steering committee as set forth in subdivision eleven of this section to make recommendations to the county legislature regarding monitoring progress within the district consistent with the Suffolk county subwatershed wastewater management plan and the distribution of assessment collections or funding from any other source between and among the zones of assessment within the district.

7. Hearing and findings. (a) The county legislature shall meet at the time and place specified in the notice required by subdivision six of this section and hear all persons interested in the subject matter thereof concerning the same.

(b) If the Suffolk county legislature shall determine after the public hearing it is in the public interest to establish the district as recommended in the report and specified in the notice of hearing; including that the district contain one or more zones of assessment; the merger of any or all existing Suffolk county sewer districts or the assimilation of any privately sewered community into the district; to assess upon each lot or parcel of land subject to taxation and located within the district and the amount of money required to be paid by the typical one or two family home within each zone of assessment, including the annual expenses of operation and maintenance costs of the district and the sums sufficient to pay the annual installment of principal of, and interest on, obligations for improvements of the district; the basis for the future assessment of all such expenses of the district by one or more of the following methods: (i) special assessment as that term is defined in subdivision fifteen of section one hundred two of the real property tax law, (ii) special ad valorem levy as that term is defined in subdivision fourteen of section one hundred two of the real property tax law, and (iii) sewer rents as provided by article fourteen-F of the general municipal law; the establishment by separate local law of a steering

committee as set forth in subdivision eleven of this section, it may adopt a resolution, subject to permissive referendum pursuant to section one hundred one of this chapter, so creating the district to form a single county-wide sewer and wastewater management district known as the "Suffolk county wastewater management district". If the county legislature shall determine that it is not in the public interest to establish such district, it shall adopt a resolution so stating and terminating the proceedings with respect thereto.

(c) The permission of the state comptroller shall not be required to establish a district created pursuant to this section.

8. Notice of adoption of resolution. Within ten days after the adoption by the Suffolk county legislature of the resolution to establish the district described in subdivision seven of this section, the Suffolk county legislature shall give notice thereof, at the expense of the county, by the publication of a notice in such newspapers and within such time period as set forth in section one hundred one of this chapter. Such notice shall set forth the date of adoption of the resolution and contain an abstract of such resolution, describing, in general terms, its purpose and intent and that such resolution was adopted subject to permissive referendum.

9. Recording determination. The clerk of the county legislature shall within ten days after the effective date of the resolution creating the district cause a certified copy to be recorded in the office of the clerk of the county and when so recorded such order shall be presumptive evidence of the regularity of the proceedings for the creation of the district and of all other action taken by the county legislature pursuant to this section. A certified copy shall also be filed in the office of the state department of audit and control in Albany, New York.

10. Creation of the district. The creation of the district and the merger of any existing county sewer districts therewith shall become effective on January first of the next succeeding year following its adoption as set forth in subdivision seven of this section. Upon such creation and merger, all the property of such sewer districts so merged shall become the property of the district, however, shall remain attributable to such zone of assessment therein established from which it was originally acquired, and the district shall, on terms approved by the county legislature, assume and pay the remaining indebtedness of each such original sewer district as if such indebtedness had been incurred subsequent to the creation of the district and the merger therewith of all existing sewer districts, however, any and all such debt assumed and payable shall thereafter continue to be payable solely with funds collected within the zone of assessment from which the debt was originally assumed. The Suffolk county wastewater management district shall be deemed a county-wide special district to carry out the purposes of this article and such other terms as provided in this article.

11. Steering committee to the district. The steering committee shall be comprised of the following members: a representative from the department of environmental conservation; a representative from the East End supervisors and mayors association; the chair of the Suffolk town supervisors association or designee; the chair from the building trades or designee; the chair of the Suffolk county planning commission; a representative from a regional environmental organization; the county executive or designee; the presiding officer of the Suffolk county legislature or designee; the minority leader of the Suffolk county legislature or designee; the Suffolk county department of public works commissioner or designee; and the Suffolk county department of health services

commissioner or designee. The powers and duties of the steering committee shall include auditing fiscal allocations as it relates to the goals of the Suffolk county subwatershed wastewater management plan, making prudent recommendations for resource allocations for county-approved alternative wastewater treatment technologies not contemplated in the Suffolk county subwatershed wastewater management plan and long-term progress monitoring of the implementation of the Suffolk county subwatershed wastewater management plan regarding nitrogen load reductions and ecological endpoints.

12. Future improvements. When improvements are proposed to be made to the district after the effective date of this section, the county legislature shall review and determine whether the improvements and the cost thereof are in the public interest consistent with the recommendations set forth in the Suffolk county subwatershed wastewater management plan and in accordance with the Suffolk county subwatershed wastewater management plan procedure set forth in this article prior to undertaking such improvements. Permission of the state comptroller shall not be required for the county legislature to approve or disapprove such improvements.

13. Changes in zones of assessment. After the formation of the district in accordance with this section, when changes in the number, the boundaries, the basis for determining such zones, or the allocation of costs of facilities as between such zones of assessment are proposed, the county legislature shall determine the necessity for such changes to the district's zones of assessment by resolution approved by majority vote of the total membership of the county legislature, and permission of the state comptroller shall not be required.

14. Assessments, levys and charges. After the formation of the district in accordance with this section, the county is hereby authorized by resolution approved by majority vote of the total membership of the county legislature to assess, levy and collect upon each lot or parcel of land subject to taxation within the district: (a) special assessment as that term is defined in subdivision fifteen of section one hundred two of the real property tax law; (b) special ad valorem levy as that term is defined in subdivision fourteen of section one hundred two of the real property tax law; and (c) sewer rents as provided by article fourteen-F of the general municipal law determined to be in the public interest pursuant to subdivision six of this section. Such costs and expenses may include, but shall not be limited to, the amount of money required to pay the annual expenses of maintenance, operation, personnel services of the district and the sums sufficient to pay the annual installment of principal of, and interest on, obligations for improvements of the district. Such sums so levied shall be collected by the local tax collectors or receivers of taxes and assessments and shall be paid over to the chief fiscal officer of the county, in the same manner and at the same time as taxes levied for general county purposes. The chief fiscal officer shall keep a separate account of such moneys and they shall be used only for purposes set forth in this section, and in addition, all monies collected from each zone of assessment established or amended in accordance with this section shall be further segregated and shall not be commingled with monies of other zones of assessment except upon approval by resolution of the county legislature upon recommendation of the steering committee established in accordance with this section.

15. Other laws. All provisions of the real property tax law and the Suffolk county tax act, as the same may be amended from time to time,

not inconsistent with the provisions of this article, relating to the assessing, levy and collection and enforcement of special assessments, ad valorem levies and sewer rents in the county shall apply and be of equal force and applicability to special assessments, ad valorem levies and sewer rents authorized pursuant to this section.

16. Towns and villages. This section shall not be construed as merging the sewer districts of towns and villages within the county of Suffolk into the district created by this section, however the merger of any town or village sewer district with the district shall be in accordance with section two hundred seventy-seven of this article.

§ 2. Section 257 of the county law is amended by adding a new subdivision 4 to read as follows:

4. Except as set forth in section two hundred fifty-six-b of this article, notwithstanding the provisions of this section or the provisions of any general, special or local law, no resolution or local law adopted by the county of Suffolk pursuant to any provision in this article that would otherwise be subject, shall be subject to referendum, provided that the legislature of the county of Suffolk has adopted such resolution or local law by at least a two-thirds vote of the total membership of the legislature of the county of Suffolk.

§ 3. Paragraph (g) of subdivision 2 of section 3-c of the general municipal law, as added by section 1 of part A of chapter 97 of the laws of 2011, is amended to read as follows:

(g) "Tax levy limit" means the amount of taxes authorized to be levied by or on behalf of a local government pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the local government arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior fiscal year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the system average actuarial contribution rate of the New York state and local police and fire retirement system, as defined by paragraph eleven of subdivision a of section three hundred nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local police and fire retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iv) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of the education law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state teachers'

retirement system caused by growth in the normal contribution rate minus two percentage points[~~.~~]**; and**

(v) any special assessment as that term is defined in subdivision fifteen of section one hundred two of the real property tax law and any special ad valorem levy as that term is defined in subdivision fourteen of section one hundred two of the real property tax law, levied pursuant to section two hundred fifty-six-b of the county law.

§ 4. This act shall take effect immediately.