

# 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:

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

3 § 256-b. Suffolk county wastewater management district. 1. Intent.  
4 The county of Suffolk, with a population of one million five hundred  
5 thousand persons, has in excess of three hundred eighty thousand exist-  
6 ing onsite systems, comprised mostly of cesspools and leaching pools,  
7 with two hundred nine thousand of these onsite systems in environ-  
8 mentally sensitive areas which could benefit from nitrogen-reducing  
9 technologies. The United States Environmental Protection Agency recog-  
10 nizes Long Island as having a sole source aquifer system for its drink-  
11 ing water supply. Suffolk county has an imminent need to preserve this  
12 valuable water resource by reducing the amount of nitrogen discharged  
13 into the groundwater by traditional onsite residential sanitary systems.

14 The Suffolk county subwatershed wastewater management plan, certified  
15 by the department of environmental conservation as a Nine Elements  
16 Watershed (9E) plan, has documented the devastating effects of high  
17 levels of nitrogen pollution, not only on the drinking water quality,  
18 but also on coastal ecosystems, dissolved oxygen, water clarity,  
19 eelgrass, wetlands, shellfish, coastal resilience and in triggering  
20 harmful algal blooms. The Suffolk county subwatershed wastewater manage-  
21 ment plan is a long-term plan to address the need for wastewater treat-  
22 ment infrastructure throughout the county comprehensively over a period  
23 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.

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

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

18 2. Power. Notwithstanding the provisions of any general, special or  
19 local law to the contrary, including this article, the county legisla-  
20 ture of Suffolk county is hereby authorized to create a Suffolk county  
21 wastewater management district which shall include all powers of a sewer  
22 district and a wastewater disposal district (the "district") as enumer-  
23 ated in section two hundred fifty of this article and as set forth in  
24 this subdivision, in accordance with the procedure contained in this  
25 section. In addition to the powers as enumerated within section two  
26 hundred fifty of this article, the district shall have the power, as  
27 determined by the county legislature, to: (a) recommend and establish  
28 one or more zones of assessment within the district based upon territo-  
29 rial boundaries, the method of wastewater collection, treatment and  
30 disposal existing or proposed, or both, and make changes to such zones  
31 of assessments; (b) acquire interests in real property, including ease-  
32 ments on residential parcels, necessary for the installation and mainte-  
33 nance of district facilities; (c) prioritize district projects in  
34 accordance with the Suffolk county subwatershed wastewater plan adopted  
35 by the county legislature, and any amendments thereto; and (d) distrib-  
36 ute grant proceeds within the district in accordance with the goals  
37 established in the Suffolk county subwatershed wastewater plan.

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

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

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

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

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

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

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

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

11 8. Notice of adoption of resolution. Within ten days after the  
12 adoption by the Suffolk county legislature of the resolution to estab-  
13 lish the district described in subdivision seven of this section, the  
14 Suffolk county legislature shall give notice thereof, at the expense of  
15 the county, by the publication of a notice in such newspapers and within  
16 such time period as set forth in section one hundred one of this chap-  
17 ter. Such notice shall set forth the date of adoption of the resolution  
18 and contain an abstract of such resolution, describing, in general  
19 terms, its purpose and intent and that such resolution was adopted  
20 subject to permissive referendum.

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

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

46 11. Steering committee to the district. The steering committee shall  
47 be comprised of the following members: a representative from the depart-  
48 ment of environmental conservation; a representative from the East End  
49 supervisors and mayors association; the chair of the Suffolk town super-  
50 visors association or designee; the chair from the building trades or  
51 designee; the chair of the Suffolk county planning commission; a repre-  
52 sentative from a regional environmental organization; the county execu-  
53 tive or designee; the presiding officer of the Suffolk county legisla-  
54 ture or designee; the minority leader of the Suffolk county legislature  
55 or designee; the Suffolk county department of public works commissioner  
56 or designee; and the Suffolk county department of health services

1 commissioner or designee. The powers and duties of the steering commit-  
2 tee shall include auditing fiscal allocations as it relates to the goals  
3 of the Suffolk county subwatershed wastewater management plan, making  
4 prudent recommendations for resource allocations for county-approved  
5 alternative wastewater treatment technologies not contemplated in the  
6 Suffolk county subwatershed wastewater management plan and long-term  
7 progress monitoring of the implementation of the Suffolk county subwat-  
8 ershed wastewater management plan regarding nitrogen load reductions and  
9 ecological endpoints.

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

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

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

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

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

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

11 § 2. Section 257 of the county law is amended by adding a new subdivi-  
12 sion 4 to read as follows:

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

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

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

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

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

41 (iii) in years in which the system average actuarial contribution rate  
42 of the New York state and local police and fire retirement system, as  
43 defined by paragraph eleven of subdivision a of section three hundred  
44 nineteen-a of the retirement and social security law, increases by more  
45 than two percentage points from the previous year, a tax levy necessary  
46 for expenditures for the coming fiscal year for local government employ-  
47 er contributions to the New York state and local police and fire retire-  
48 ment system caused by growth in the system average actuarial contrib-  
49 ution rate minus two percentage points;

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

1 retirement system caused by growth in the normal contribution rate minus  
2 two percentage points[~~-~~]; and

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

8 § 4. This act shall take effect immediately.