

# STATE OF NEW YORK

8473

## IN SENATE

February 1, 2024

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the county law, the tax law and the Suffolk county water quality restoration act, in relation to the use of moneys from the water quality restoration fund

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

1 Section 1. Section 2 of part TT of chapter 58 of the laws of 2023  
2 constituting the Suffolk county water quality restoration act, is  
3 amended to read as follows:

4 § 2. Legislative intent. The county of Suffolk ("county"), with a  
5 population of one million five hundred thousand persons, has in excess  
6 of three hundred eighty thousand existing onsite wastewater disposal  
7 systems, comprised mostly of cesspools and septic systems, with two  
8 hundred nine thousand of these onsite systems in environmentally sensi-  
9 tive areas which could benefit from nitrogen-reducing technologies. The  
10 United States Environmental Protection Agency recognizes Long Island as  
11 having a sole source aquifer system for its drinking water supply.  
12 Suffolk county has an imminent need to preserve this valuable water  
13 resource by reducing the amount of nitrogen discharged into the ground-  
14 water by onsite systems. The full water cycle is impacted by increasing  
15 quantities of nutrients, pathogens, pesticides, volatile organic contam-  
16 inants and saltwater intrusion, as well as a number of emerging threats  
17 such as prescription drugs and sea level rise.

18 The Suffolk county subwatersheds wastewater plan ("SWP"), certified by  
19 the department of environmental conservation as a Nine Elements  
20 Watershed (9E) plan, has documented the devastating effects of high  
21 levels of nitrogen pollution, not only on the drinking water quality,  
22 but also on coastal ecosystems, dissolved oxygen, water clarity,  
23 eelgrass, wetlands, shellfish, coastal resilience and in triggering  
24 harmful algal blooms. The SWP is a long-term plan to address the need  
25 for wastewater treatment infrastructure throughout the county comprehen-  
26 sively over a period of fifty years. The SWP delineates the source and  
27 concentration of nitrogen loading in one hundred ninety-one subwat-

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

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1 ersheds throughout the county, and establishes nitrogen reduction goals  
2 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, the SWP prescribes a hybrid approach that relies on sewerage  
6 where feasible, and the replacement of cesspools and septic systems with  
7 innovative/alternative onsite wastewater treatment systems. The consol-  
8 idation of any or all of the twenty-seven county sewer districts, as  
9 well as unsewered areas of the county, into a county-wide wastewater  
10 management district, the establishment of a water quality restoration  
11 fund, and a county board of trustees to monitor progress and the allo-  
12 cation of resources consistent with the goals of the SWP would allow for  
13 the implementation of a much needed integrated long-term wastewater  
14 solution for the county through comprehensive planning and management to  
15 improve water quality.

16 The purpose of this act is to create a water quality restoration fund  
17 to finance projects for the protection, preservation, and rehabilitation  
18 of groundwater and surface waters as recommended by the SWP. This act  
19 would allow the funding of projects that will mitigate wastewater pollu-  
20 tants utilizing the best available technology consistent with the SWP.  
21 The water quality restoration fund would be financed with a dedicated  
22 and recurring revenue source by the enactment of an additional sales and  
23 compensating use tax at the rate of one-eighth of one percent until  
24 2060. After deducting administrative and planning costs, fifty percent  
25 of the revenue shall be dedicated to funding individual septic system  
26 projects and fifty percent of the revenue shall be dedicated to funding  
27 projects related to wastewater treatment facilities. Such tax would be  
28 enacted pursuant to a mandatory referendum.

29 This act shall also provide Suffolk county with the authority to  
30 create a county-wide wastewater management district through the consol-  
31 idation of existing county sewer districts with currently unsewered  
32 areas of the county. A county-wide wastewater management district will  
33 provide an integrated and efficient approach to managing wastewater  
34 services across the county; allow the county to enhance and expand its  
35 incentive program to property owners to upgrade their wastewater treat-  
36 ment systems; to manage, monitor and enforce nitrogen reduction programs  
37 throughout the county; complete additional sewer extension projects;  
38 improve the economic wellbeing of communities; and provide an opportu-  
39 nity to consolidate and streamline the county's existing sewer district  
40 system and normalize the inequitable rate structure that has long  
41 existed.

42 In addition, this act will extend the existing one-quarter of one  
43 percent sales tax utilized to finance the county drinking water  
44 protection program until 2060. Twenty-five percent of such tax is appor-  
45 tioned for sewer taxpayer protection. Beginning with the first fiscal  
46 year after the adoption of the water quality restoration fund, a portion  
47 of the net collections of such tax apportioned for sewer taxpayer  
48 protection shall be transferred to the water quality restoration fund,  
49 established pursuant to subdivision 11 of section 256-b of the county  
50 law. Such revenues shall be dedicated solely to funding individual  
51 septic system projects as defined in such subdivision. In the first  
52 four years, the portion to be transferred from funds apportioned for  
53 sewer taxpayer protection to the water quality restoration fund shall be  
54 five percent. In year five, the portion to be transferred from funds  
55 apportioned for sewer tax payer protection to the water quality restora-  
56 tion fund shall be twenty percent. The amount to be transferred shall

1 be thirty percent in year six, forty percent in year seven, fifty  
2 percent in year eight, and seventy percent in years nine and ten. The  
3 portion transferred to the fund shall be fifty percent in all years  
4 thereafter.

5 § 2. Subdivision 11 of section 256-b of the county law, as added by  
6 section 3 of part TT of chapter 58 of the laws of 2023, is amended to  
7 read as follows:

8 11. Water quality restoration fund. (a) Notwithstanding any provision  
9 of law to the contrary, the county of Suffolk shall deposit the net  
10 collections from the sales and compensating use tax authorized by  
11 section one thousand two hundred ten-F of the tax law into the Suffolk  
12 county water quality restoration fund established in accordance there-  
13 with, and shall utilize all monies transferred from the fund consistent  
14 with this section. Nothing contained in this section shall be construed  
15 to prevent the financing in whole or in part, pursuant to the local  
16 finance law, of any project authorized pursuant to this section. Monies  
17 from the fund may be utilized to repay any indebtedness or obligations  
18 incurred pursuant to the local finance law consistent with effectuating  
19 the purposes of this section. Where Suffolk county finances a project,  
20 in whole, or in part, pursuant to the local finance law, the resolution  
21 authorizing such indebtedness shall be accompanied by a report from the  
22 county executive demonstrating how said indebtedness will be repaid by  
23 the fund. Said report shall include an estimate of projected revenues of  
24 the fund during the period of indebtedness. The report shall also  
25 provide an accounting of all other indebtedness incurred against the  
26 fund to be repaid for the same period. The county legislature shall  
27 make findings by resolution that there will be sufficient revenue to  
28 repay such indebtedness in its entirety from the fund before authorizing  
29 such indebtedness. Monies in said fund may be appropriated from or  
30 expended in any fiscal year to implement the powers set forth in this  
31 section and to repay any indebtedness or obligations incurred pursuant  
32 to the local finance law for the purposes authorized pursuant to this  
33 section.

34 (b) (i) Water quality improvement projects shall be eligible for fund-  
35 ing pursuant to this section. For purposes of this section, "water  
36 quality improvement projects" shall mean: (A) the planning, design,  
37 construction, acquisition, enlargement, extension, or alteration of a  
38 county, town or village wastewater treatment facility, including indi-  
39 vidual hookups, and projects for the reuse of treated effluent from such  
40 wastewater treatment facilities, or (B) an individual septic system,  
41 including an alternative wastewater treatment facility or an individual  
42 septic system with active treatment, to treat, neutralize, stabilize,  
43 eliminate or partially eliminate sewage or reduce pollutants, including  
44 permanent or pilot demonstration wastewater treatment projects, or  
45 equipment or furnishings thereof. In the case of individual septic  
46 system projects, the funding of the operation and maintenance of such  
47 projects shall be included in the definition of "water quality improve-  
48 ment projects". Such projects shall have as their purpose the remedi-  
49 ation of existing water quality to meet specific water quality standards  
50 consistent with the SWP. Projects consistent with or listed in the SWP  
51 that are part of a plan adopted by a local government resulting in a net  
52 nitrogen reduction shall be eligible for consideration by the board of  
53 trustees, established in accordance with subparagraph (i) of paragraph  
54 (c) of this subdivision.

55 (ii) Of the annual collections [~~of the fund~~] from the tax imposed  
56 pursuant to section one thousand two hundred ten-F of the tax law,

1 administration of the county wastewater management district shall not  
2 exceed ten percent. [~~Not less than seventy-five~~] The cost of prepara-  
3 tion of an annual SWP implementation action plan to protect, preserve,  
4 and rehabilitate groundwater, surface water, and drinking water shall be  
5 included as part of such administrative costs. After first deducting  
6 such administrative costs, fifty percent of the [~~remaining annual funds~~  
7 ~~after administration~~] net revenue from such tax shall be used toward  
8 funding individual septic [~~systems~~] system projects and fifty percent of  
9 the net revenue from such tax shall be used for funding projects related  
10 to wastewater treatment facilities. [~~In addition to water quality~~  
11 ~~improvement projects, other eligible expenditures from the fund shall~~  
12 ~~include the preparation of an annual SWP implementation action plan to~~  
13 ~~protect, preserve, and rehabilitate groundwater, surface water, and~~  
14 ~~drinking water~~] All revenue transferred to the water quality restoration  
15 fund from the tax imposed pursuant to section one thousand two hundred  
16 ten-A of the tax law, as required by paragraph (iv) of subdivision (d)  
17 of such section, shall be used solely to fund individual septic system  
18 projects.

19 (iii) Other than for the payment of indebtedness or obligations  
20 incurred as set forth in paragraph (a) of this subdivision, and except  
21 for the preparation of the SWP implementation plan itself, no monies may  
22 be expended until the SWP implementation plan has been prepared and  
23 approved as provided for in this section.

24 (iv) Any expenditure from the fund for a purpose other than that  
25 expressly permitted, herein, shall be prohibited.

26 (c) (i) Within the local law, ordinance or resolution establishing the  
27 Suffolk county water quality restoration fund, [~~pursuant to section one~~  
28 ~~thousand two hundred ten F of the tax law,~~] the county shall establish a  
29 board of trustees of twenty-one members to prepare, review and approve  
30 the SWP implementation plan for submission to the county executive and  
31 county legislature and shall specify the powers and duties of the board  
32 of trustees, including the procedures for appointment of a chairperson.  
33 Such approval shall be in addition to all other approvals required by  
34 law. The board of trustees shall consist of: (A) a representative from  
35 the department of environmental conservation; (B) a representative from  
36 the East End supervisors and mayors association; (C) a representative of  
37 the Suffolk town supervisors association; (D) a representative of the  
38 Suffolk County Village Officials Association; (E) a town representative  
39 from the State Central Pine Barrens Joint Planning and Policy Commission  
40 to be designated by the commission; (F) a municipal representative from  
41 the Peconic Estuary Partnership; (G) a municipal representative from the  
42 State South Shore Estuary Reserve; (H) a municipal representative from  
43 the Long Island Sound Estuary; (I) a representative of the Long Island  
44 Federation of Labor; (J) a representative of Building and Construction  
45 Trades Council of Nassau & Suffolk counties; (K) a representative from a  
46 regional environmental organization; (L) the chair of the Suffolk county  
47 planning commission; (M) the county executive or designee; (N) the  
48 presiding officer of the county legislature or designee; (O) the minori-  
49 ty leader of the county legislature or designee; (P) the county depart-  
50 ment of public works commissioner or designee; (Q) the county department  
51 of health services commissioner or designee; (R) a representative from a  
52 regional economic development organization; (S) a representative from  
53 the liquid waste industry; (T) a representative from the Suffolk County  
54 Alliance of Chambers, Inc.; and (U) a representative from the Long  
55 Island Contractors Association.

1 (ii) The powers and duties of the board of trustees shall [~~oversee~~  
2 include overseeing the annual audit pursuant to paragraph (e) of this  
3 subdivision, making prudent recommendations for resource allocations for  
4 county-approved alternative wastewater treatment technologies not  
5 contemplated in the Suffolk county subwatersheds wastewater plan and  
6 long-term progress monitoring of the implementation of the Suffolk coun-  
7 ty subwatersheds wastewater plan regarding achievements of nitrogen load  
8 reductions and ecological endpoints.

9 (d) Annual SWP implementation plan. The board of trustees shall  
10 prepare, review and approve and submit to the county executive the SWP  
11 implementation plan within one year of the effective date of this  
12 section, and in every five years thereafter in a like manner. The board  
13 of trustees shall conduct a public hearing on said plan before its  
14 adoption or subsequent amendment. Said plan shall list every water qual-  
15 ity restoration project which the county plans to undertake pursuant to  
16 the fund and shall state how such project would improve existing water  
17 quality. Funds may only be expended pursuant to this section for  
18 projects which have been included in said plan. Said plan shall be  
19 consistent with state, federal, county, and local government land use  
20 and wastewater management plans. After submission and approval by the  
21 county executive, such plan shall be submitted to the county legisla-  
22 ture. Upon review, the county legislature shall determine, by local  
23 law, whether to approve the proposed plan, if the plan is denied, the  
24 plan shall be remanded to the board of trustees for further study. Such  
25 plan shall not become effective until approved by local law. Projects  
26 may be added or removed from the currently effective SWP implementation  
27 plan in a like manner.

28 (e) Annual audit. The county shall annually commission an independent  
29 audit of the fund. The audit shall be conducted by an independent certi-  
30 fied public accountant or an independent public accountant. [~~Said~~ Such  
31 audit shall be performed by a certified public accountant or an inde-  
32 pendent public accountant other than the one that performs the general  
33 audit of the county's finances. Such audit shall be an examination of  
34 the fund and shall determine whether the fund has been administered  
35 consistent with the provisions of this section and all other applicable  
36 provisions of state law. Said audit shall be initiated within sixty days  
37 of the close of the fiscal year of the county and shall be completed  
38 within one hundred twenty days of the close of the fiscal year. A copy  
39 of the audit shall be submitted annually to the state comptroller and  
40 the county comptroller. A copy of the audit shall be made available to  
41 the public within thirty days of its completion. A notice of the  
42 completion of the audit shall be published in the official newspaper of  
43 the county and shall also be posted on the internet website for the  
44 county. The cost of the audit may be a charge to the fund.

45 (f) Annual report. In addition to any other report required by this  
46 section, the board of trustees, through its chairperson, shall deliver  
47 annually a report to the county legislature. Such report shall be  
48 presented by May fifteenth of each year. The report shall describe in  
49 detail the projects undertaken, the monies expended, and the administra-  
50 tive activities of the water quality fund and district established in  
51 accordance with this section, during the prior year. At the conclusion  
52 of the report, the chairperson of the board of trustees shall be  
53 prepared to answer the questions of the county legislature with respect  
54 to the projects undertaken, the monies expended, and the administrative  
55 activities during the past year. Any costs associated with preparing the  
56 annual report shall be a charge to the fund.

1 § 3. Subdivision (d) of section 1210-A of the tax law, as amended by  
2 section 4-a of part TT of chapter 58 of the laws of 2023, is amended to  
3 read as follows:

4 (d) Notwithstanding any other provision of this article to the contra-  
5 ry, the net collections from the tax imposed pursuant to subdivision (a)  
6 of this section for the period beginning December first, nineteen  
7 hundred eighty-eight and ending November thirtieth, two thousand sixty  
8 shall, upon payment to the county of Suffolk, be deposited in a special  
9 fund, to be designated as a drinking water protection reserve fund, to  
10 be created by said county therefor separate and apart from any other  
11 funds and accounts of the county. Moneys in such fund shall be deposited  
12 in one or more of the banks or trust companies designated, in the manner  
13 provided by law, as a depository of the funds of such county. Pending  
14 expenditure from such fund, moneys therein may be invested in the manner  
15 provided in section eleven of the general municipal law. Any interest  
16 earned or capital gain realized on the moneys so deposited or invested  
17 shall accrue to and become part of such fund. Moneys in said fund may be  
18 appropriated from and transferred to or expended in any fiscal year only  
19 for the purposes of making payments pursuant to subdivisions (b) and (c)  
20 of this section for the period beginning December first, nineteen  
21 hundred eighty-eight, to the extent that moneys in said fund are remain-  
22 ing, and if authorized by local law, for the following purposes:

23 (i) for the purposes of specific environmental protection (acquisition  
24 of: farmland development rights; open space, wetlands, woodlands, pine  
25 barrens and other lands for passive recreational uses; lands for hamlet  
26 greens, hamlet parks, pocket parks, historic parks, cultural parks and  
27 other lands for active/parkland recreational uses; lands necessary for  
28 maintaining and protecting the quality of surface water, groundwater and  
29 coastal resources);

30 (ii) for a water quality protection and restoration program or  
31 programs and land stewardship initiatives;

32 (iii) for the purposes of county-wide property tax protection; and

33 (iv) for the purpose of sewer taxpayer protection (25% of the net  
34 collections from the tax). Beginning with the first fiscal year after  
35 the adoption of the water quality restoration fund, a portion of the net  
36 collections of such tax apportioned for this purpose as provided for  
37 herein, shall be transferred to the water quality restoration fund,  
38 established pursuant to subdivision eleven of section two hundred  
39 fifty-six-b of the county law. Said revenues shall be dedicated solely  
40 to funding individual septic system projects as defined in such subdivi-  
41 sion. The portion of net collections of the tax transferred to the water  
42 quality restoration fund each year shall be as follows:

<u>Year</u>	<u>Percentage</u>
<u>1</u>	<u>5%</u>
<u>2</u>	<u>5%</u>
<u>3</u>	<u>5%</u>
<u>4</u>	<u>5%</u>
<u>5</u>	<u>20%</u>
<u>6</u>	<u>30%</u>
<u>7</u>	<u>40%</u>
<u>8</u>	<u>50%</u>
<u>9</u>	<u>70%</u>
<u>10</u>	<u>70%</u>

1 For all subsequent years, the portion of net collections transferred to  
2 the water quality restoration fund shall be fifty percent.

3 Notwithstanding any special or local law, resolution or charter  
4 provision to the contrary, moneys in said fund which have not been  
5 appropriated from and transferred to or expended in any fiscal year for  
6 the purposes of making payments pursuant to subdivisions (b) and (c) of  
7 this section, may alternatively be appropriated for the purposes of  
8 paying debt service on any new indebtedness incurred after the effective  
9 date of the chapter of the laws of two thousand one that enacted this  
10 paragraph pursuant to the local finance law in order to effectuate the  
11 purposes described in paragraph (i) or (ii) of this subdivision. For the  
12 purpose of allocating moneys in said fund pursuant to local law among  
13 the purposes described in paragraphs (i), (ii), (iii) and (iv) of this  
14 subdivision, moneys applied to the payment of debt service under the  
15 authority of the previous sentence shall be considered by said county to  
16 have been expended for the purposes for which such indebtedness was  
17 incurred.

18 § 4. After January 1, 2030, the Suffolk county executive shall prepare  
19 a report to be submitted to the governor and the legislature. Such  
20 report shall make recommendations regarding any modifications to this  
21 act, if any, with regard to the future distribution of revenue for water  
22 quality improvement projects based upon the future demand for funding  
23 for wastewater treatment projects and individual septic system projects.

24 § 5. This act shall take effect immediately.