

STATE OF NEW YORK

9612

IN SENATE

May 16, 2024

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

AN ACT to amend the county law, in relation to providing for the conveyance or lease of sewer system properties and responsibilities by cities, towns and villages in the county of Westchester when determined to be in the public interest

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 277-a to
2 read as follows:

3 § 277-a. Conveyance or lease to the county of Westchester by cities,
4 towns and villages of sewer system property and the establishment of
5 certain county sewer districts, extensions or special transitional zones
6 of assessment in the county of Westchester. 1. As used in this section,
7 the following terms shall have the following meanings:

8 a. "Charter" shall mean the charter and administrative code of the
9 county of Westchester.

10 b. "City, town and village" shall mean a city, town or village in the
11 county of Westchester, including towns or villages acting on behalf of
12 town or village sewer districts.

13 c. "Commissioner of finance" shall mean the commissioner of finance of
14 the county of Westchester.

15 d. "Commissioner of environmental facilities" shall mean the commis-
16 sioner of environmental facilities of the county of Westchester.

17 e. "County" shall mean the county of Westchester, including when
18 acting on behalf of a county sewer district.

19 f. "County legislature" shall mean the county legislature of the coun-
20 ty of Westchester.

21 g. "Governing board of a city, town or village in the county of West-
22 chester" shall mean the finance board as such term is defined in section
23 2.00 of the local finance law.

24 h. "Sewer system" shall include sewage collection or conveyance facil-
25 ities, treatment or disposal plants, buildings, land and rights in land,
26 furnishings, equipment, machinery and apparatus, appurtenant facilities,

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

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1 all moneys on hand collected or received for the purposes of such sewer
2 system, and all other items of property, either real or personal or
3 mixed, acquired for or incidental to such sewer system.

4 i. "Sewer system consolidation agreement" shall mean an agreement
5 between the county and a city, town or village in the county whereby the
6 city, town or village shall convey or lease sewer system property to the
7 county for operation, maintenance or improvement by the county described
8 in subdivision two of this section.

9 j. "Special transitional zone of assessment" shall mean a zone of
10 assessment within a county sewer district established to allocate all or
11 a portion of the costs of facilitating a conveyance or lease of sewer
12 system property by a city, town or village to the county and a transfer
13 of responsibilities for the operation, maintenance and improvement ther-
14 eof to the county sewer district. A special transitional zone of assess-
15 ment may overlap all or portions of any zone of assessment established
16 in a county sewer district to allocate the costs of the operation, main-
17 tenance and improvement of the county's trunk sewers and wastewater
18 treatment plants and related facilities.

19 k. "Town sewer district" shall mean a sewer district governed by the
20 provisions of articles twelve or twelve-A of the town law or a benefited
21 area established to provide a sewer improvement pursuant to articles
22 three-A or twelve-C of such law.

23 l. "Village sewer district" shall mean a sewer district governed by
24 the provisions of article fourteen and section 17-1718 of the village
25 law.

26 2. Notwithstanding the provisions of any general, special or local
27 law, the county and any city, town or village in the county may enter
28 into, and take the actions necessary to implement, sewer system consol-
29 idation agreements under this section to facilitate the conveyance or
30 lease to the county of sewer system property and the transfer to the
31 county of the responsibilities of operation, maintenance and improvement
32 of sewer system property. Sewer system consolidation agreements shall
33 include the following provisions:

34 a. an identification of the sewer system property of the city, town or
35 village to be conveyed or leased to the county, the consideration, if
36 any, for such conveyance or lease and the conditions, if any, under
37 which the conveyance or lease could be reversed or canceled;

38 b. a description of any improvements of such property to be made by
39 the county, the estimated cost thereof and the plan for financing such
40 improvements;

41 c. determinations of whether the county shall undertake to establish
42 special transitional zones of assessment under terms and conditions as
43 may be agreed upon, and shall include a description and estimate of the
44 costs to be allocated to the special transitional zone of assessment and
45 a description of whether the costs allocated thereto shall be levied in
46 the same manner as other county charges or in the manner described in
47 section two hundred seventy or section two hundred seventy-one of this
48 article, and if pursuant to section two hundred seventy-one, whether and
49 under what circumstances such manner of levy is expected to be changed;

50 d. determinations of whether the county shall make a payment or
51 payments to the city, town or village in respect of city, town or
52 village debt service on indebtedness issued to finance sewer facilities
53 or whether the county may finance the cost of acquisition of sewer
54 facilities from cities, towns or villages through the issuance of bonds
55 or notes in accordance with the local finance law, and in either case
56 whether the city, town or village shall establish funds to receive all

1 or a portion of the proceeds thereof, as may be necessary or convenient
2 to facilitate such payments or as may be required by section six-1 of
3 the general municipal law, and whether the city, town or village shall
4 call outstanding bonds for redemption at such times and under such
5 conditions as may be agreed to;

6 e. determinations of whether and to what extent the county and the
7 city, town or village shall indemnify each other for liabilities for
8 work performed or existing conditions;

9 f. determinations of whether employees of the city, town or village
10 shall be transferred to the county and become county employees under
11 such terms and conditions as such employees and the parties may agree,
12 subject to the rights and privileges of such employees under labor
13 agreements and applicable law, and whether employees of cities, towns
14 and villages not so transferred to the county may continue to be
15 employed by such cities, towns and villages to provide services to the
16 county sewer district under such terms as may be agreed upon;

17 g. estimates of capital cost of the sewer system property conveyed or
18 leased, which may include planning, design, acquisition and construction
19 costs of such property and improvements thereto, the costs of prepara-
20 tion of reports described in subdivision three of this section and the
21 sewer system consolidation agreement, and any other expenses incurred in
22 furtherance of the making of the sewer system consolidation agreement,
23 and the amounts of the capital cost to be charged against properties in
24 a special transitional zone of assessment, to be paid by the county
25 through a county sewer district or to be paid by the city, town or
26 village;

27 h. estimates of the operating expenses of the property conveyed or
28 leased under the sewer system consolidation agreement, and a statement
29 of the portions of the operating expenses to be annually charged against
30 properties in a special transitional zone of assessment, to be paid by
31 the county through a county sewer district or to be paid by the city,
32 town or village;

33 i. terms describing the actions necessary to amend the sewer system
34 consolidation agreement; and

35 j. terms describing the conditions under which the sewer system
36 consolidation agreement may be extended.

37 3. Any city, town or village may prepare and furnish to the county a
38 report containing a map and a general description of the sewer system
39 property which is proposed to be leased or conveyed and a description of
40 its current condition. The report shall include the terms of any
41 outstanding indebtedness issued to finance acquisition or improvement of
42 such sewer system property and such additional information relevant to
43 the assessment of the costs of operation, maintenance and improvement of
44 such sewer system property as the county may request. Upon presentation
45 of such report the county legislature may refer the same to the commis-
46 sioner of environmental facilities for a plan and report with respect
47 thereto. If the county legislature refers the report to the commissioner
48 of environmental facilities, said commissioner shall thereupon prepare
49 and furnish to the county legislature a plan and report describing capi-
50 tal improvements, if any, to such sewer system property which the
51 commissioner of environmental facilities recommends be undertaken
52 following its conveyance or lease to the county. This plan and report
53 shall include the estimated costs thereof, together with an estimate of
54 the operating and maintenance costs of such property. The plan and
55 report shall also contain such other data and information as shall have
56 been requested by the county legislature or as may be determined by the

1 commissioner of environmental facilities to be appropriate under the
2 circumstances. Upon review of the plan and report, the county legisla-
3 ture may, if a majority of the county legislature approves the plan and
4 report, authorize the preparation of a draft sewer system consolidation
5 agreement and direct that such plan and report be furnished to the city,
6 town or village. The county and the city, town or village may then
7 prepare a draft sewer system consolidation agreement. The draft sewer
8 system consolidation agreement shall be presented to and approved as to
9 form by the county legislature and the governing body of the city, town
10 or village prior to the calling of a hearing under subdivisions seven
11 and five of this section, respectively. Such draft sewer system consol-
12 idation agreement shall not be binding nor shall it be executed until
13 after a public hearing and authorization by the county legislature and
14 the governing body of the city, town or village, as provided for in
15 subdivisions six and eight of this section.

16 4. In addition to existing authority to establish county sewer
17 districts or extensions, the county legislature, in furtherance of a
18 sewer system consolidation agreement, may establish a special transi-
19 tional zone of assessment in any county sewer district, and to the
20 extent such special transitional zone of assessment would fall in whole
21 or in part outside any county sewer district, may coincidentally estab-
22 lish a county sewer district encompassing such area or extend an exist-
23 ing county sewer district to encompass such area, in the manner herein-
24 after provided. Each special transitional zone of assessment shall have
25 boundaries coterminous with the area provided with a sewer system by any
26 city, town or village, for the purpose of facilitating the conveyance or
27 lease to the county all or a portion of the property of cities, towns or
28 villages relating to the collection and conveyance of sewage to county
29 trunk sewers and the transfer of all or a portion of the responsibil-
30 ities for the operation, maintenance and improvement thereof.

31 5. Following the approval of a draft sewer system consolidation agree-
32 ment, the governing body of the city, town or village shall hold a
33 public hearing on the draft sewer system consolidation agreement. Such
34 public hearing shall be called by such governing body, which shall
35 direct that notice thereof be published and posted not less than four-
36 teen days prior to the date set for such hearing. Such notice shall be
37 given, in the case of towns, in the manner prescribed in section one
38 hundred ninety-three of the town law, and in the case of cities and
39 villages, in the manner prescribed for general elections. Such notice
40 shall state in general terms that it is proposed to petition the county
41 legislature to enter into a sewer system consolidation agreement and, if
42 contemplated by the sewer system consolidation agreement, to establish
43 or extend a county sewer district or establish a special transitional
44 zone of assessment for the purpose of facilitating the conveyance or
45 lease of property to the county and its operation, maintenance and
46 improvement of such property, as set forth in the draft sewer system
47 consolidation agreement. Such notice shall generally identify the
48 particular sewer system proposed to be conveyed or leased, the proposed
49 improvements thereto, if any, and the estimated maximum cost thereof,
50 and shall describe the boundaries of the proposed, district, extension
51 or special transitional zone of assessment in a manner sufficient to
52 permit definite and conclusive identification of all parcels of property
53 included therein. Such notice shall also state where the draft sewer
54 system consolidation agreement is available for public inspection, and
55 shall set forth the time when and place where such hearing shall be
56 held.

1 6. If the governing board shall decide, after such public hearing and
2 upon the evidence given thereat, that it is in the public interest to
3 petition the county legislature to enter into the sewer system consol-
4 idation agreement pursuant to this section, it shall authorize the
5 supervisor of the town or mayor of the village or chief executive offi-
6 cer of a city as that term is defined in the local finance law, as the
7 case may be, to:

8 a. execute such petition and file the same with the clerk of the coun-
9 ty legislature; and

10 b. execute the sewer system consolidation agreement, if the county
11 elects to enter into the sewer system consolidation agreement.

12 Such petition shall generally identify the particular sewer system
13 proposed to be conveyed or leased and shall describe the boundaries of
14 the area served thereby in a manner sufficient to permit definite and
15 conclusive identification of all parcels of property included therein.

16 7. Upon receipt of such petition and after the approval of the form of
17 the draft sewer system consolidation agreement, the county legislature
18 may call a public hearing to enter into the sewer system consolidation
19 agreement and, if contemplated thereby, to establish a special transi-
20 tional zone of assessment or establish or extend a county sewer
21 district. Notice of such public hearing shall be given not less than
22 fourteen days prior to the date of the hearing in the manner prescribed
23 in section two hundred fifty-four of this article. In addition, a copy
24 of such notice shall be served upon or mailed to the city, town or
25 village which presented such petition not less than fourteen days prior
26 to the day set therein for such hearing. Such notice shall contain:

27 a. a general description of the sewer system property proposed to be
28 conveyed or leased;

29 b. a description of the boundaries of any proposed district, extension
30 or special transitional zone of assessment in a manner sufficient to
31 permit definite and conclusive identification of all parcels of property
32 included therein;

33 c. the estimated maximum amount to be expended for proposed improve-
34 ments;

35 d. a statement of the proposed manner of assessing costs allocable to
36 the special transitional zone of assessment, indicating whether it is
37 proposed to levy assessments pursuant to the charter in the same manner
38 as county charges or as described in section two hundred seventy or
39 section two hundred seventy-one of this article;

40 e. a statement of whether and to what extent the county sewer district
41 will assume the payment of outstanding obligations, contracts and other
42 indebtedness of the city, town or village for the purposes of or in
43 relation to the sewer system proposed to be conveyed or leased;

44 f. shall state where the draft sewer system consolidation agreement is
45 available for public inspection; and

46 g. shall specify the time when and place where the county legislature
47 will meet to consider the matter and to hear all parties interested
48 therein concerning the same.

49 8. If, based upon the evidence presented at such public hearing and
50 after due consideration of the petition, the plan and report of the
51 commissioner of environmental facilities and other data provided to it,
52 the county legislature shall determine that it is in the public interest
53 to enter into the sewer system consolidation agreement, it shall by
54 majority vote adopt an act authorizing the execution of the sewer system
55 consolidation agreement. If the county legislature shall determine that
56 it is not in the public interest to enter into the sewer system consol-

1 idation agreement, it shall adopt an act so stating and terminating the
2 proceedings with respect thereto. The parties to a sewer system consol-
3 idation agreement may from time to time amend the sewer system consol-
4 idation agreement, provided that, if an amendment would a. increase the
5 estimated capital cost to be assessed against properties in a special
6 transitional zone of assessment for the improvements proposed in the
7 sewer system consolidation agreement; b. increase the share of operation
8 and maintenance costs to be annually assessed against a special transi-
9 tional zone of assessment; or c. eliminate from or add parcels to a
10 special transitional zone of assessment, the amendment may be authorized
11 only after public hearings held by each party in the same manner as the
12 original sewer system consolidation agreement following determinations
13 by the parties that such amendment is in the public interest after hear-
14 ings held as required for the original sewer system consolidation agree-
15 ment. Notwithstanding the provisions of sections two hundred fifty-six,
16 two hundred fifty-eight and two hundred sixty-eight of this article, or
17 any other law, no act adopted pursuant to this section shall be subject
18 to permissive referendum, nor shall the permission of the state comp-
19 troller be required to establish or extend a district pursuant hereto or
20 to create a special transitional zone of assessment in any county sewer
21 district, or, from time to time, to increase and improve the facilities
22 of any county sewer district in the county of Westchester. Nothing in
23 this section shall modify the special acts of the legislature and local
24 laws of the county of Westchester governing county sewer districts and
25 the assessments made and taxes levied in connection therewith, and the
26 county of Westchester may continue to operate county sewer districts in
27 conformity therewith, irrespective of whether the county sewer district
28 has undertaken to own, operate, maintain or improve sewers which are not
29 trunk sewers pursuant to this section or otherwise undertakes to provide
30 sewage collection and conveyance facilities in addition to trunk sewers.

31 9. As part of the implementation of the sewer system consolidation
32 agreement, the county may adopt an act to establish a special transi-
33 tional zone of assessment or establish or extend a county sewer
34 district, which act shall include the following:

35 a. an accurate description of the boundaries of any such district,
36 extension, or special transitional zone of assessment in a manner suffi-
37 cient to permit definite and conclusive identification of all parcels of
38 property included therein, provided, however, if such district, exten-
39 sion or special transitional zone of assessment is coterminous with a
40 city, town or village it shall be a sufficient compliance with this
41 paragraph to so state without describing the boundaries of such city,
42 town or village;

43 b. a general description of the sewer system property to be conveyed
44 or leased to the county in accordance with the sewer system consol-
45 idation agreement;

46 c. a determination as to whether assessments for district purposes
47 will be levied pursuant to the charter in the same manner as county
48 charges or as described in section two hundred seventy or section two
49 hundred seventy-one of this article in accordance with the notice of the
50 public hearing held pursuant to subdivision seven of this section;

51 d. a determination as to the effective date or dates for the convey-
52 ance or lease of the property described in accordance with paragraph b
53 of this subdivision, having due regard to the fiscal year of the county
54 and the city, town or village concerned and the availability of funds
55 for the operation, maintenance and improvement of the sewer system by
56 the county;

1 e. a determination assuming responsibility for the payment of all or
2 the agreed portion of all obligations, contracts and other indebtedness
3 of the city, town or village, as the case may be, incurred for the
4 purposes of or in relation to the sewer system property to be conveyed
5 or leased which shall be outstanding as of the effective date of such
6 conveyance or lease, the exact amount and details thereof to be subject
7 to future determination by agreement in such manner as may be provided
8 therein; and

9 f. such other terms, conditions and provisions with respect to the
10 establishment of such district and such conveyance or lease, not incon-
11 sistent with the provisions of this section, as the county legislature
12 may determine to be necessary or desirable under the circumstances.

13 10. The clerk of the county legislature, within ten days after the
14 adoption thereof, shall file a certified copy of such act with the clerk
15 of the city, town or village concerned, who shall present the same to
16 the governing board at the next meeting thereof. Such governing board
17 shall thereupon proceed to adopt such resolutions or ordinances and take
18 such other action as shall be necessary or convenient to effectuate a
19 conveyance or lease of sewer system property to the county in accordance
20 with the provisions of this section and such act. In addition, in the
21 case of a town or a village sewer district, and if so provided in an
22 agreement with the county, the governing board may adopt an order
23 dissolving such district effective as of the date of such conveyance or
24 lease, a certified copy of which shall be recorded in the office of the
25 county clerk, or, if such district is not to be dissolved, the governing
26 board may adopt an order describing the remaining functions and respon-
27 sibilities of the district.

28 11. All or an agreed upon portion of assessments levied by, or fees,
29 rates, rents or other charges due or moneys owing to any city, town or
30 village with respect to any sewer system and remaining unpaid as of the
31 effective date of the conveyance or lease thereof to a county district
32 pursuant to this section shall be collected by the city, town or village
33 concerned in the same manner as if such conveyance or lease had not been
34 made, and upon receipt shall be paid over to the county commissioner of
35 finance to be applied for the purposes of such county sewer district.

36 12. a. The principal of and interest on all outstanding bonds and
37 notes of a city, town or village issued to pay all or part of the cost
38 of any sewer system conveyed or leased to a county district pursuant to
39 this section shall continue to be paid when due by such city, town or
40 village, and, if a sewer system consolidation agreement with the county
41 so provides, from moneys provided for such purpose by the county from
42 county district funds raised or appropriated therefor. If the county has
43 agreed to make such payments, the county commissioner of finance shall
44 from time to time pay such moneys to the fiscal officer of such city,
45 town or village sufficiently in advance to permit the payment of all or
46 the agreed upon portion of such principal and interest when due. All
47 other obligations and contract liabilities of a city, town or village
48 assumed by the county in a sewer system consolidation agreement shall be
49 paid directly from funds of the county in the same manner as other coun-
50 ty sewer district claims.

51 b. If bonds have been authorized by a city, town or village pursuant
52 to the local finance law to pay all or a part of the cost of the acqui-
53 sition, construction or reconstruction of or addition to a sewer system
54 or the replacement of equipment, machinery, apparatus or furnishings
55 therefor, and in anticipation of the issuance of such bonds such city,
56 town or village has issued a bond anticipation note or notes or has

1 otherwise contracted indebtedness to be paid from the proceeds of such
2 bonds, and prior to the issuance of such bonds and the payment of such
3 note or notes or other indebtedness, such sewer system has been conveyed
4 or leased to the county pursuant to this section, the county may issue
5 its bonds for the object or purpose of paying such note or notes or
6 other indebtedness. The period of probable usefulness of the object or
7 purpose for which such bonds may be issued by the county pursuant to
8 this subdivision shall be the same as the period of probable usefulness
9 specified in paragraph a of section 11.00 of the local finance law for
10 the object or purpose for which the bonds were authorized by such city,
11 town or village prior to such transfer. Such period shall be that which
12 was in effect at the time of such transfer unless such period has been
13 subsequently shortened, in which event the shorter period in effect at
14 the time of the issuance of the bonds by the county shall apply. For the
15 purposes of paragraphs b, b-1 and c of section 21.00 of the local
16 finance law, the date of the earliest bond anticipation note issued by
17 such city, town or village shall be considered as the date of the earli-
18 est bond anticipation note issued in anticipation of the bonds issued by
19 the county for the object or purpose. Except as herein provided, such
20 bonds shall be authorized and issued by the county in accordance with
21 the provisions of the local finance law.

22 c. If, at the time of such transfer, the city, town or village has
23 outstanding bonds issued to finance the conveyed or leased sewer facili-
24 ties, the county may issue refunding bonds under and subject to the
25 provisions of section 90.10 of the local finance law or section 90.00 of
26 the local finance law, except, if the bonds to be refunded are refunding
27 bonds, for paragraph I thereof, to pay the principal, interest and
28 redemption premium of the bonds of the city, town or village of the
29 bonds to be refunded, with savings to the county calculated as if the
30 principal, interest and redemption premium on the bonds to be refunded
31 were to be considered bonds of the county.

32 13. The county legislature, and each city, town and village, are here-
33 by authorized to adopt all such further acts and to take or direct all
34 such additional proceedings as may be necessary or desirable to effectu-
35 ate the purposes and intent of this section.

36 14. The county, cities, towns and villages may expend capital funds to
37 conduct evaluations, surveys and analysis of county sewer facilities and
38 the sewer facilities of cities, towns and villages in the county which
39 may be useful in identifying whether or not the conveyance or lease of
40 particular city, town or village sewer facilities to the county would be
41 in the public interest and in planning, structuring and negotiating a
42 conveyance or lease of city, town or village facilities to the county,
43 and the county may elect to reimburse such costs incurred by cities,
44 towns or villages and to allocate the costs thereof. All of such costs
45 not paid from current funds may be financed by the county as part of the
46 cost of the acquisition of sewer facilities by the county, irrespective
47 of whether any such acquisition is subsequently completed.

48 15. The provisions of section one hundred nineteen-o of the general
49 municipal law shall apply to sewer system consolidation agreements made
50 under this section, except that, irrespective of the term limits set
51 forth in section one hundred nineteen-o of the general municipal law,
52 such agreements may have terms which extend for up to fifty years and
53 which may be renewed periodically as provided therein for a term not
54 exceeding fifty years. The expiration of any such agreements shall not
55 affect actions completed under such agreements, including the conveyance
56 or lease of property or any change in the status of employees trans-

1 ferred to the county pursuant thereto. This section does not replace or
2 diminish the authority of the county and cities, towns and villages in
3 the county to make agreements under section one hundred nineteen-o of
4 the general municipal law in addition to the sewer system consolidation
5 agreements authorized by this section.

6 § 2. This act shall take effect immediately.