

# STATE OF NEW YORK

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5877--A

2025-2026 Regular Sessions

## IN ASSEMBLY

February 24, 2025

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Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to ratify and confirm the creation of water district no. 14 of the town of Monroe and to authorize the issuance of bonds or notes by the town of Monroe to finance certain inter-fund borrowings by water district no. 14 from such town's general fund

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

1 Section 1. Legislative findings. It is hereby found and determined  
2 that the Town of Monroe, Orange County, New York, hereinafter known as  
3 the town, spent General Fund money in the amount of \$577,539 to make  
4 improvements to the former water system owned and operated by Orchard  
5 Hill Water Company prior to the establishment of Water District No. 14  
6 in accordance with the provisions of Article 12-A of the town law. In  
7 2013, the town spent general fund money in the amount of \$144,523 to pay  
8 for the construction of a new water well, improvements to the pump house  
9 and other system improvements. In the years that followed, the town  
10 spent general fund money in the amount of \$433,016 to replace water  
11 mains and make other system improvements, including tank rehabilitation.  
12 The expenditure of such funds by the town board prior to the district's  
13 establishment as described above was in violation of the provisions of  
14 section 165.10 of the local finance law. Further, the town failed to  
15 repay to the moneys advanced from the general fund to make improvements  
16 to the former water system by the close of the fiscal year in which the  
17 advance was made with reasonable interest in accordance with section 9-a  
18 of the general municipal law.

19 Lastly, bond resolutions were not adopted by the town board at the  
20 times such funds were paid and as a result the town is prohibited from  
21 financing such costs with bonds or notes. The specific actions taken by  
22 the town in furtherance of establishment of Water District No. 14 and

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

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1 the construction and financing of improvements therein are more fully  
2 described as follows:

3 Upon the death of the owners of the Orchard Hill Water Company, the  
4 water system fell into disrepair leading to the enactment of a Boil  
5 Water Notice on May 10, 2011 for the residents of the water system. The  
6 land of the Orchard Hill Water Company fell into receivership. Residents  
7 of the water system petitioned the town to assume operation of the water  
8 system and to form a water district. The town board adopted an Order  
9 Calling a Public Hearing and held said Public Hearing on December 17,  
10 2012. The town's petition to be named as a temporary operator of the  
11 system was approved by the Public Service Commission on June 17, 2013.  
12 The town submitted an application to the state comptroller for the  
13 approval of the establishment of Water District No. 14 and the  
14 construction of improvements required by the Department of Health to  
15 operate the system. Various discussions between representatives of the  
16 state comptroller and the town followed regarding the application  
17 submitted by the town. The town decided to amend the scope of the  
18 improvements to be undertaken to reduce the impact to the residents  
19 served by the former Orchard Hill Water Company resulting in  
20 construction of a new water well, improvements to the pump house and  
21 other system improvements. The land owned by the Orchard Hill Water  
22 Company remained in receivership following the death of the owners and  
23 the town withdrew its application submitted to the state comptroller  
24 because the town did not own the property. The town ultimately took  
25 ownership of the land in 2019.

26 In 2019, the town's engineer prepared a map, plan and report for Water  
27 District No. 14. On July 1, 2019, the town board held a public hearing  
28 with respect to Water District No. 14 and adopted an Order Following  
29 Public Hearing. The town filed said order with the county clerk; howev-  
30 er, the town board did not obtain the permission of the state comp-  
31 troller for the establishment of the district in violation of section  
32 209-f of the town law.

33 The town has operated Water District No. 14 as a de-facto water  
34 district in violation of the provisions of articles 12 and 12-A of the  
35 town law since 2013. In addition to using general fund money to pay the  
36 costs of the initial improvements described herein, the town has spent  
37 general fund money to replace water mains on account of breaks and other  
38 system improvements, including tank rehabilitation, to provide for a  
39 properly functioning water system. The town has been assessing resi-  
40 dents of Water District No. 14 for operation and maintenance expenses of  
41 the water system in accordance with the schedule enacted by the public  
42 service commission. The town has not assessed residents for capital  
43 improvements to the system and as result none of the general fund money  
44 paid by the town has been repaid. As of December 31, 2024, the total  
45 amount of the initial payment by the town that remains outstanding is  
46 \$577,539.

47 The failure of the town board to adopt a bond resolution prior to the  
48 expenditure of such money for the water system improvements was contrary  
49 to the provisions of section 165.10 of the local finance law.

50 § 2. Water district established. Notwithstanding the defects  
51 described in section 1 of this act, the establishment of Water District  
52 No. 14 is hereby legalized, validated, ratified and confirmed. Said  
53 water district established pursuant to this act shall be funded, oper-  
54 ated, expanded and otherwise controlled in accordance with the  
55 provisions of articles 12 and 12-A of the town law and the provisions of  
56 this act. To the extent that the provisions of this act shall in any

1 way be in conflict with articles 12 and 12-A of the town law, the  
2 provisions of this act shall be controlling. The imposition of any  
3 special assessments by the town upon the properties previously served by  
4 the Orchard Hill Water Company are hereby validated.

5 § 3. Bonds authorized. The town is authorized to issue bonds or notes  
6 in the principal amount of \$577,539 on behalf of Water District No. 14  
7 for the purpose of reimbursing the general fund of the town from which  
8 moneys have been temporarily diverted since 2013 to pay certain of the  
9 costs incurred in the improvement of the water system acquired by the  
10 town in accordance with mandate of the public service commission,  
11 notwithstanding the provisions of section 165.10 of the local finance  
12 law which, provide, in effect that a bond resolution shall have first  
13 adopted before any such temporary diversion of funds shall have been so  
14 made and notwithstanding section 9-a of the general municipal law which  
15 requires money advanced to be repaid to the fund from which they were  
16 advanced not later than the close of the fiscal year in which the  
17 advance was made with reasonable interest. The period of probable  
18 usefulness for such improvements is forty (40) years from the date of  
19 the initial improvements, which occurred in 2013. In anticipation of  
20 such bonds, bond anticipation notes are hereby authorized.

21 § 4. Obligations. Except as provided herein, any obligations issued  
22 pursuant to this act shall be issued in accordance with the local  
23 finance law.

24 § 5. Severability. If any clause, sentence, subdivision, paragraph,  
25 section, or part of this act be adjudged by any court of competent  
26 jurisdiction to be invalid, judgment shall not affect, impair, or inval-  
27 idate the remainder thereof, but shall be confined in its operation to  
28 the clause, sentence, subdivision, paragraph, section, or part thereof  
29 directly involved in the controversy in which such judgment shall have  
30 been rendered.

31 § 6. This act shall take effect immediately.