STATE OF NEW YORK

5877--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 24, 2025

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:

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

Lastly, bond resolutions were not adopted by the town board at the times such funds were paid and as a result the town is prohibited from financing such costs with bonds or notes. The specific actions taken by 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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the construction and financing of improvements therein are more fully described as follows:

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

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

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

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

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

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

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

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

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

§ 6. This act shall take effect immediately.