§ 17-1905. Operation and maintenance of sewage treatment works.

1. As used in this section:

a. "Operation and maintenance" means and includes all direct costs for labor, direct supervision, vehicles, vessels, supplies, materials, fuel, lubricants, power, and similar costs, the direct costs charged against labor such as retirement, social security, and insurance, and such other charges as real property and school taxes and special assessments and ad valorem levies on sewage treatment works located outside of the corporate limits of the municipality, insurance premiums on sewage treatment plant structures, and equipment. It shall not include any administrative, legislative or overhead costs other than as outlined above, costs of indirect supervision or costs of any capital improvements.

b. "Sewage treatment works" means and includes the structures, equipment, vehicles, vessels, and appurtenances of local government used exclusively for the treatment of sewage and for the disposal of sludge resulting from sewage treatment. Sewage treatment works shall also include outlet sewers, overflow structures on sewer systems, diversion chambers on intercepting sewers, and pumping stations which have replaced a sewage treatment plant or plants. Such treatment works shall not include any other sewers, nor any properties used in whole or in part for the administration of sewage treatment works unless such properties are on the site of, and an integral part of, the sewage treatment plant.

c. "Qualifications for state assistance to municipalities" means and includes submission by the municipality of (1) audited costs of sewage treatment plant operation, (2) standard reports with respect to such plant performance and effect on receiving waters, (3) evidence that the sewage treatment plant is under the supervision of an operator qualified pursuant to section f of chapter 11 of the State Sanitary Code, (4) evidence that the sewage from the tributary area reaches such sewage treatment plant for processing, within practical limitations, (5) evidence that such sewage treatment plant is and has been constructed in

substantial compliance with the plans approved by and on file with the commissioner or with approved amendments thereto. The burden of proof to establish qualifications for state assistance rests with the municipality.

d. "Municipality" means a county, city, town, village or district corporation, or a county or town on behalf of a special improvement district, which operates and maintains sewage treatment works, or a city on behalf of a sewer authority now existing in such city which operates and maintains sewage treatment works, or any of the foregoing in cases in which the sewage treatment works is operated and maintained by the New York State Environmental Facilities Corporation pursuant to subdivision 1 of section 1285 of the Public Authorities Law, or the New York state pure waters authority acting pursuant to subdivision 3 of section 1285 of the Public Authorities Law.

2. The commissioner shall apportion and approve for payment state assistance to each municipality which, by itself or in cooperation with one or more other municipalities or other governments, operates and maintains or is responsible for the payment of expenses for operation and maintenance of sewage treatment works during all or part of a fiscal year of such municipality, in accordance with qualifications for state assistance applicable to the operation and maintenance of such works. Where a special or improvement district or a sewer authority operates and maintains sewage treatment works, state assistance paid to a county, city or town on behalf of such district or authority shall be credited by such county, city or town to such district or authority. Such state assistance, when apportioned among the municipalities applying, shall be for not more than one-third of the amount approved by the commissioner as having been duly expended by the municipality for such operation and maintenance during each of the two successive fiscal years of the municipality beginning with its fiscal year commencing on or after June 1, 1974 and for one-fourth of such amount expended by the municipality during each of the following five successive fiscal years of the municipality beginning with its fiscal year commencing on or after June 1, 1976, for thirty-three and one-third percent of such amount expended by the municipality for its fiscal year commencing between June 1, 1981

and May 31, 1982, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1982 and May 31, 1983, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1983 and May 31, 1984, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1984 and May 31, 1985, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1985 and May 31, 1986, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1986 and May 31, 1987, for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1987 and May 31, 1988 and for one-third of such amount expended by the municipality for its fiscal year commencing between June 1, 1988 and May 31, 1989. Provided further, however, if the amount appropriated by the legislature to meet the requirements of this section is insufficient to make the full payments required herein, the amounts to be paid to municipalities pursuant to this section shall be proportionately reduced. Such state assistance shall be paid on account of such expenditures after the termination of the fiscal year of the municipality and after the commissioner shall have determined, in accordance with this section;

a. The total of such expenditures properly attributable to operation and maintenance, and

b. That such operation and maintenance complied with the applicable qualifications for state assistance.

All payments of such state assistance shall be made after audit by and upon warrant of the comptroller on vouchers approved by the commissioner.

3. A municipality applying for state assistance pursuant to this section shall submit to the commissioner within sixty days after the termination of a fiscal year of the municipality an application in such form and containing such information as the commissioner shall require in order to effectuate the purposes of this section and to perform his functions, powers and duties thereunder.

4. In administering and enforcing the provisions of this section the commissioner shall:

a. Annually furnish an estimate to the director of the budget of the amount required to be included in the executive budget for state assistance payable under this section and for such purpose shall have power to require municipalities to file advance estimates of the amounts of state assistance estimated to be payable to them under this section during the next fiscal year of the state.

b. Deny state assistance to any municipality which fails to operate and maintain its sewage treatment works in accordance with qualifications for state assistance applicable to such works.

c. Make an annual inspection of operating conditions and results, including the collection of necessary flow and analytical data and sampling, at each sewage treatment plan for the maintenance and operation of which state assistance is granted pursuant to this section.

d. Promulgate such rules and regulations pursuant to subdivision 3 of section 17-0303 as may be necessary, proper or desirable to carry out effectively the provisions of this section, including, but not limited to, standards of operating efficiency for sewage treatment works, based on the best usage of the receiving waters, type of treatment provided, and available dilution.

e. On or before May first, nineteen hundred seventy-five, the commissioner shall present to the governor and the legislature a study of the system of state assistance payable under this section. The study shall describe the effect the provision of this state assistance has had on the quality and efficiency of the treatment of sewage by municipalities. It shall also evaluate the effect that would be achieved by changing the type and level of assistance provided. In evaluating these alternatives, it shall consider among other possible courses, the possibilities of providing aid in relation to the level of removal of pollutants achieved, and of providing aid for certain items not now included in approvable operating costs such as repairs and

rehabilitation of facilities, and of providing more or less state assistance for the various types of expenses. It shall also evaluate such other aspects of the program as shall be necessary to provide a clear picture of the current effectiveness of the program, how it may be improved, what the annual costs of such improvements may be and whether such current or proposed expenditures do in fact provide a commensurate value to the state. Such study shall contain the commissioner's recommendations for the continuation, elimination or modification of the system of state assistance payable under this section.