§ 194. Establishment or extension of districts. 1. After a hearing held upon notice as hereinbefore provided and upon the evidence given thereat, the town board shall determine by resolution: (a) whether the petition is signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient;

(b) whether all the property and property owners within the proposed district or extension are benefited thereby;

(c) whether all the property and property owners benefited are included within the limits of the proposed district or extension;

(d) whether it is in the public interest to grant in whole or in part the relief sought.

2. (a) If the town board shall determine that the petition is not signed, and acknowledged or proved, or authenticated, as required by law or that it is otherwise insufficient, or if it is determined that it be not in the public interest to grant in whole or in part the relief sought, the town board shall deny the petition.

(b) If the town board shall determine that the petition is signed, and acknowledged or proved, or authenticated, as required by law and is otherwise sufficient and that it is in the public interest to grant the relief sought, either in whole or in part, but shall find that any part or portion of the property or property owners within the proposed district or extension are not benefited thereby or that certain property or property owners benefited thereby have not been included therein, the town board shall specify the necessary changes of the boundaries of the proposed district or extension to be made in order that all of the property and property owners and only such property and property owners as are benefited shall be included within such proposed district or extension, and the board shall call a further hearing at a definite place and time not less than fifteen nor more than twenty-five days after such determination. Notice of such further hearing shall be posted and published in the manner provided in section one hundred ninety-three hereof except that such notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district or extension. Such further hearing shall be conducted in the same manner as an original hearing upon a petition. If and when the town board shall determine in the affirmative all of the questions set forth in

subdivision one of this section, the board may adopt a resolution approving the establishment or extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service therein, but no such resolution so approving shall be adopted unless the petition shall comply with the requirements of section one hundred ninety-one as to sufficiency of signers as the boundaries of the proposed district or extension shall be finally determined.

3. (a) Within ten days after the adoption of a resolution by a town board approving the establishment or extension of a district and the construction of an improvement or the providing of a service therein, the town clerk of the town shall file a certified copy of such resolution, in duplicate, in the office of the state department of audit and control at Albany, New York, together with an application, in duplicate, for permission to create or extend such district as the case may be. Such application shall be executed and verified by the supervisor, or such other officer of the town as the town board shall determine, and shall include the following:

(1) A certified copy of the petition (omitting, however, the signatures, and acknowledgments or proofs, or authentications) and in the instance of a sewer, drainage or water district, of the map and plan accompanying the same;

(2) An itemized statement of the then outstanding indebtedness of the town for all purposes, as evidenced by bonds, bond anticipation notes, capital notes and budget notes; the amount of joint indebtedness contracted or incurred for a joint service or a joint water, sewage or drainage project and the amount of such indebtedness allocated and apportioned to the town, as defined in title one-a of the local finance law; the amount of the indebtedness proposed to be contracted for the improvement; the amount of budgetary appropriations for the payment of any such indebtedness, whether or not such appropriations have been realized as cash, and the amounts, purposes and probable dates of issuance of any bonds, bond anticipation notes, capital notes and budget notes which the town has authorized to be issued but which in fact have not been issued on the date of such application;

(3) A statement of the aggregate assessed valuation of the real

property situated in the proposed district or extension thereof, as such assessed valuations are shown on the last completed assessment roll of the town prior to the date of such application;

(4) A statement of the average full valuation of the taxable real property of the town. Such average full valuation shall be determined in accordance with the provisions of the first paragraph of subdivision seven-a of section 2.00 of the local finance law;

(5) A statement as to the manner in which it is proposed to finance the cost of the improvement.

(b) Whenever such an application shall be filed in the office of the department of audit and control, the state comptroller shall within five days thereafter give notice thereof to the board of supervisors of the county in which such proposed district or extension is located by filing with the clerk of such board of supervisors one copy of such application. At any time within fifteen days of the filing of the application, the board of supervisors may file an objection, in writing, in the office of the department of audit and control. In addition, the state comptroller shall determine whether the public interest will be served by the creation or extension of the district and also whether the cost thereof will be an undue burden upon the property of the proposed district or extension. The state comptroller may make such determinations upon the original or any amended application, or in his discretion may require the submission of additional information or data in such form and detail as he shall deem sufficient, or may cause an investigation to be made, to aid him in making the determinations above mentioned.

4. Upon the expiration of fifteen days from the date of the filing of such application with the clerk of the board of supervisors and upon reaching a determination, the comptroller shall make an order, in duplicate, granting or denying permission for the creation or extension of the district and shall file one copy of such order in the office of the state department of audit and control at Albany, New York, and the other in the office of the town clerk of the town in which the proposed district or extension is located. The town clerk shall present such order to the town board of the town at the next meeting thereof.

5. If the state comptroller shall deny permission for the creation or extension of the district, the town board shall forthwith adopt an order denying the petition. If the state comptroller shall grant permission therefor, the town board may adopt an order establishing the district or extension as the boundaries shall be finally determined.

6. Except as otherwise provided by section two hundred two-b of this article, the permission of the state comptroller shall not be required for the establishment or extension of a district and the construction of an improvement or the providing of a service therein, including an increase in the maximum amount proposed to be expended for the improvement in a district, unless it is proposed or required that the town in which such district or extension is located shall finance the cost thereof by the issuance of the bonds, notes, certificates or other evidences of indebtedness of the town therefor or it is proposed that debt service on obligations issued to finance the costs of facilities acquired be assumed, pursuant to subdivision twelve of section one hundred ninety-eight of this article, and, if the state comptroller shall have computed average estimated costs for similar types of districts, the cost of the district or extension to the typical property or, if different, the costs of the district or extension to the typical one or two family home, as stated in the notice of hearing, is above the average estimated cost to typical properties or homes for the establishment or extension of similar types of districts as may be annually computed by the state comptroller. The state comptroller annually shall provide to towns notice of the average cost thresholds as may be computed in accordance with this section.