



Erica Guerin
<saugertiesgirl@gmail.com>
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To raad24@aol.com, vfab@co.ulster.ny.us,
kbar@co.ulster.ny.us
cc
bcc

Subject Amended Answer to Question 1

Good Morning, Legislator Gerentine:

Per last night's meeting, I would like to amend my answer to Question #1 posed by Legislator Wishnick as follows:

1. Is state legislation required to enact the tax?

No, state legislation is not required to establish a refuse tax district. Article 5-A of the New York State County Law allows a county legislature to establish a refuse district “for the purpose of the collection and disposition of garbage, ashes, rubbish and other waste matter within the county.” See County Law Section 250 (5).

A refuse tax district cannot be established to only pay off debt. Section 250(5) would have to be amended to authorize such a purpose.

However, permission from the State Comptroller may be necessary to establish the district. The Comptroller’s approval is required if debt is proposed to be issued by a town or county, and the “cost of the district or extension” to the “typical property” or, if different, the “typical one or two family home” as stated in the notice of hearing, is above the average estimated cost thresholds determined by the Comptroller. (State Comptroller’s Letter dated December 2011.) If the State Comptroller’s permission is required, the Comptroller must determine “whether the public interest will be served by the establishment of the district and also whether the cost of thereof will be an undue burden upon the property of the proposed district.” See County Law Section 258.

Article 5-A sets forth the process under which the refuse district may be established which includes the passing of a resolution, the creation of district maps, the authority to appoint an agency to carry out the requisites of the statute, and the determination of the tax amount. Public hearings are required for the adoption of the district maps and the tax to be assessed. There is a Permissive Referendum for this tax. See County Law Sections 251 through 258 and 262-263.

County Law Section 266 allows the refuse taxing district to charge for the collection and disposal of the waste and such revenue shall be applied to maintenance and operation costs and the payment of debt service.

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Erica K. F. Guerin, Esq.
Ulster County Legislative Counsel

244 Fair Street
PO Box 1800
Kingston, New York 12402
845-340-3900

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