

## MEMORANDUM

TO: Legislator Richard Gerentine  
FROM: Erica Guerin  
RE: Tax Questions for the Special Committee on the UCRRA  
DATE: September 21, 2012

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After consulting with Legislator Wishnick, I understand that there are three components to the "fee or tax based system to finance the RRA" alternative that is to be explored by the Special Committee. Those components are:

- A) the creation of a special tax district;
- B) a special assessment; or
- C) assessing a special permit fee/tax.

I confirmed with Legislator Wishnick that his questions relate to the special tax district alone.

Thus, in consultation with Legislative Counsel Chapman, I offer the answers below to Legislator Wishnick's questions. For the convenience of the Special Committee, I am including the annotated statutes that are referenced in the answers as attachments hereto.

**1. Is state legislation required to enact the tax?**

No, state legislation is not required. 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).

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.

**2. What would be the basis for assessing the amount of tax to each dwelling/business?**

There are two ways in which the tax could be assessed:

- A) County Law Section 270 sets forth the Assessment of the Cost. The tax shall be assessed, levied, and collected in the same manner and at the same time as county charges. In the event it is a special assessment, the equalization rule would have to be followed.
- B) County Law Section 271 allows for an alternative assessment. Under section 271, the tax to be "assessed in proportion as nearly as may be to the benefit which each lot or parcel of land will derive therefrom." Thus, each parcel would pay according to the benefit it would receive from the services provided by the refuse tax district.

Properties that are exempt from property taxes will be exempt from the refuse district tax. See Real Property Tax Law Section 490.

**3. What would the expenses related to enacting, processing bills, collecting taxes, and following up on delinquencies?**

With the exception of the enactment of the refuse tax district, there would be very little additional cost to process the bills, collect the taxes and following up on delinquencies as the tax would be part of the general tax bill that is sent out the first week of January.

The cost to enact of the refuse tax district is unquantifiable presently as the process would include the drafting of maps for the district and the drafting of necessary reports for the creation of the district and the determination of the tax, which would more than likely require the assistance of professionals. The public hearings have the typical publication costs.

**4. Could the lack of payment result in a forced property sale?**

The Commissioner of Finance would have the same powers to collect delinquent taxes for the refuse district tax as are provided for in the Real Property Tax Law which includes tax foreclosures.

**5. Would the tax revenues collected through a solid waste tax district be counted toward the annual increase in property taxes allowed law?**

This question has been posed to the State Comptroller's office and we are awaiting a reply.

**6. If answer to above question is yes, what would be the advantages of a solid waste district tax as compared to the Net Service Fee under the current system?**

We have not been able to determine any advantages.

Majority Leader Ken Ronk posed the following questions:

**1. Does the Special Taxing District impact the County's 2% tax cap? Will the Special Taxing District be charged against the 2% tax cap?**

We await the answer from the State Comptroller.

**2. Will the tax be ad valorem?**

The refuse tax district is an ad valorem tax.

**3. Is the purpose of the Special Taxing District to pay bonds and only bonds?**

The refuse tax district could not be established to pay only the bonds. County Law does not allow the establishment of the special tax districts for the sole purpose of debt service. Every taxing district has to provide some type of service benefiting those within the district. Here, the taxes collected would have to be for the "collection and disposition of garbage, ashes, rubbish and other waste matter with the county." See County Law Section 250. Thus, the refuse tax district has to provide services related to waste generated in the county.

**4. Will the Special Taxing District dissolve when the bonds are paid off?**

There is no provision in County Law to allow a taxing district to sunset. If the Legislature decided that the taxing district was no longer necessary, it would have to proceed with the dissolution thereof.

**C****Effective: December 1, 2010**McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)    <sup>¶</sup> Chapter 11. Of the Consolidated Laws        <sup>¶</sup> Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)            → → **§ 250. Purpose**

The board of supervisors of each county may establish, consolidate, or extend county water, water quality treatment, sewer, wastewater disposal, drainage or refuse districts (hereinafter referred to in this article as the "district") in the manner hereinafter provided:

1. For the purpose of developing or acquiring a supply of water for (a) wholesale distribution to other municipalities, districts or persons, corporate or otherwise, within the county water district, (b) retail distribution, except as hereinafter provided, or (c) both such wholesale and retail distribution;

1-a. For the purpose of (a) procuring by purchase, lease or other means and installing water quality treatment units or devices, if required; providing periodic testing and monitoring of raw and finished water from private wells in the district; monitoring, modifying, repairing, replacing, operation and maintenance, regenerating water quality treatment units and devices and the administering of the treatment and disposal of residuals generated in the operation of the district pursuant to rules and regulations adopted by the public health and health planning council under section two hundred twenty-five of the public health law; (b) assisting local, state and federal agencies and officials in efforts to establish causes of, and implement remedial measures to reduce water contamination and protect future water resources within the district; (c) conduct public meetings and issue an annual public report to members of the district on the operation, financial position and water quality condition of said district; provided, however, that with respect to any town in the county the board of supervisors shall first determine that such district or service will not be established or provided by such town.

2. For the purpose of (a) the conveyance from other municipalities and districts within the county of sewage, and treatment and disposal thereof, (b) collection, except as hereinafter provided, or (c) both such conveyance and such collection;

3. For the purpose of administration and planning (including educational programs), design, installation, construction, rehabilitation, replacement, operation and maintenance (including pumping and inspections), monitoring, residual treatment and disposal and regulation of private on-site wastewater disposal systems of such district;

4. For the purpose of drainage of storm water and other waters, either surface or subsurface, within the county;

4-a. For the purpose of effecting lake protection and rehabilitation, and any activities necessarily related thereto.

5. For the purpose of the collection and disposition of garbage, ashes, rubbish and other waste matter within the county.

6. A county district established hereunder may consist of two or more noncontiguous areas in which the water, sewer, wastewater disposal, drainage or refuse system (hereinafter referred to in this article as the "system") will be interrelated and interdependent, however, in Suffolk county the term "interrelated and interdependent" shall be deemed to mean that the noncontiguous areas must be within the county and have the same administrative head. However, a water quality treatment district established hereunder may consist of noncontiguous or contiguous benefited parcels of property and shall be created by a resolution of the county board of supervisors, upon petition after a public hearing.

7. Except in the county of Suffolk, no county district shall be established hereunder which shall consist wholly of territory within one city, within one village or within that portion of one town outside of a village.

8. Notwithstanding any other provision of law a sewer district may also exercise all the powers of a wastewater disposal district if the map and plan prepared pursuant to section two hundred fifty-three of this chapter, or amended pursuant to section two hundred fifty-three-b of this chapter, includes on-site wastewater disposal systems.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1965, c. 1069, § 1; L.1966, c. 307, § 1; L.1967, c. 69; L.1973, c. 978, § 1; L.1980, c. 388, § 26; L.1981, c. 184, § 1; L.1981, c. 761, § 2; L.1984, c. 622, §§ 3 to 5; L.1996, c. 620, § 2; L.2010, c. 58, pt. A, § 73, eff. Dec. 1, 2010.)

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 250, 276, and 299-a. Former § 250 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4, eff. Sept. 1, 1963. Former § 276, formerly § 275, added L.1954, c. 794; renumbered § 276 and amended L.1955, c. 449, § 1; and repealed L.1963, c. 1018, § 4, eff. Sept. 1, 1963. Former § 299-a was added L.1955, c. 429; and repealed L.1963, c. 1018, § 4, eff. Sept. 1, 1963.

#### CROSS REFERENCES

Establishment of district, see County Law § 256.

Extension of district, see County Law § 274.

#### LIBRARY REFERENCES

##### 2004 Main Volume

Counties  61.

Drains  3 to 6, 9.

Waters and Water Courses  183.5.

Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties § 97.

C.J.S. Drains §§ 5, 8.

C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

ALR Library

135 ALR 1305, Validity of Statutory or Municipal Regulations as to Garbage.

Encyclopedias

NY Jur. 2d, Taxation & Assessment § 753, Drainage, Flood Control, and the Like.

NY Jur. 2d, Taxation & Assessment § 757, Sewer Systems and Plants.

NY Jur. 2d, Taxation & Assessment § 758, Water and Waterworks.

NY Jur. 2d, Taxation & Assessment § 760, Refuse Disposal.

NY Jur. 2d, Water § 308, County Lake Protection and Rehabilitation Districts.

NY Jur. 2d, Water § 792, Establishment or Extension of Districts.

NOTES OF DECISIONS

Lighting 2

Refuse collection 1

1. Refuse collection

Neither county nor refuse disposal district was required under County Law article to collect or accept for disposal all refuse generated within either county or district. Industrial Refuse Systems, Inc. v. O'Rourke, 1986, 134 Misc.2d 45, 509 N.Y.S.2d 988, affirmed as modified on other grounds 131 A.D.2d 650, 516 N.Y.S.2d 903, affirmed as modified on other grounds 129 A.D.2d 76, 516 N.Y.S.2d 940, appeal denied 70 N.Y.2d 610, 522 N.Y.S.2d 110, 516 N.E.2d 1223. Counties  21.5; Municipal Corporations  607

2. Lighting

This article establishes a comprehensive scheme for county improvement districts and preempts the adoption of local laws establishing districts for improvements or services not enumerated, thus, a county may not adopt a local law to establish a special district for street lighting purposes. Op.State Compt. 97-15.

McKinney's County Law § 250, NY COUNTY § 250

Current through L.2012, chapters 1 to 447.

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**C****Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated CurrentnessCounty Law (Refs & Annos)Chapter 11. Of the Consolidated LawsArticle 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)→→ **§ 251. County agency**

The board of supervisors may appoint or establish an officer, board or body, or may designate an existing officer, board or body, or public authority which possesses the express power to act as such an agency, to act as a county water, water quality treatment, sewer, wastewater disposal, drainage, refuse or public inland lake protection and rehabilitation agency (hereinafter referred to in this article as the "agency") having the powers hereinafter prescribed in sections two hundred fifty-two, two hundred fifty-three and two hundred fifty-four, and such other powers and duties as the board of supervisors may determine necessary to carry into effect the provisions of this article. Except in the case of a public authority, the agency may also be designated as the administrative head or body of any county district which may be established pursuant to the provisions of this article. All matters relating to the membership of such agency, including, but not limited to, numbers, method of selection, tenure, qualifications and compensation, shall be determined by the board of supervisors.

## CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1980, c. 388, § 27; L.1981, c. 761, § 3; L.1984, c. 622, § 6.)

## HISTORICAL AND STATUTORY NOTES

2004 Main Volume

## Derivation

Former §§ 251, 277, and 299-b. Former § 251 was added L.1953, c. 868; amended L.1955, c. 824, § 1; and repealed L.1963, c. 1018, § 4. Former § 277, formerly § 276, was added L.1954, c. 794; renumbered § 277 and amended L.1955, c. 449; and repealed L.1963, c. 1018, § 4. Former § 299-b was added L.1955, c. 429; amended L.1958, c. 346, § 6; L.1962, c. 216, § 2; and repealed L.1963, c. 1018, § 4.

## LIBRARY REFERENCES

2004 Main Volume

Counties ↪ 61 to 65.Drains ↪ 9, 13, 17.Waters and Water Courses ↪ 183.5.Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties §§ 97 to 103.  
C.J.S. Drains §§ 8, 14 to 15, 23.  
C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

Encyclopedias

NY Jur. 2d, Water § 308, County Lake Protection and Rehabilitation Districts.

NY Jur. 2d, Water § 538, Creation of County Water Agency.

NY Jur. 2d, Water § 796, County Agency.

#### NOTES OF DECISIONS

Authority as agency 1

1. Authority as agency

A water authority may not be designated as county water agency. 10 Op.State Compt. 144, 1954.

McKinney's County Law § 251, NY COUNTY § 251

Current through L.2012, chapters 1 to 447.

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Effective:[See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)

Chapter 11. Of the Consolidated Laws

Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→→ § 252. Powers of county agency

1. The agency, as empowered by the board of supervisors, may assemble data relating to (1) the water resources available to the county, both within and without, (2) the number and location of private wells within the county, the contaminants present in the water supply in the county's private wells, (for the purposes of this section, "contaminants" shall mean those substances found in amounts or concentrations which violate federal, state or local laws, guidelines or rules and regulations relating to drinking water or which may pose a risk to public health), the extent of contamination of the water supply in the county's private wells, and the availability of appropriate treatment technologies for the contaminants found to be present, or which are reasonably expected to be found, currently or in the future, in the water supply in the county's private wells, (3) the sewage collection, conveyance, treatment and disposal problems of the county, (4) the problems of collection, conveyance and disposal of storm water and other waters, (5) the problems of the collection and disposition of garbage, ashes, rubbish and other waste matter within the county, or (6) any measures reasonably related to lake protection and rehabilitation, including surveys of sources of degradation, treatment of aquatic nuisances, and the elimination or alleviation of such problems and the possibility of developing and utilizing existing facilities to make them available to the several municipalities and other political subdivisions within the county, and may employ such engineering, legal, professional and other assistance as from time to time may be needed, and may incur such other expenses as may be necessary within the amounts made available therefor by budget appropriations. When authorized by the board of supervisors, the agency may also apply for and expend state aid for comprehensive studies and reports pursuant to section 17-1901 of the environmental conservation law and comprehensive water studies and reports pursuant to title thirteen of article fifteen of the environmental conservation law. Where the agency has sufficient engineering and technical staff available, the board of supervisors may authorize the agency to render engineering and related technical services to municipalities located within the county pursuant to contract on terms and conditions to be agreed upon by the agency and the municipality.

2. In the county of Suffolk, the county sewer agency may undertake such other duties, powers and responsibilities as may from time to time be approved by or delegated to it by the board of supervisors and when authorized by the board of supervisors, the county sewer agency, subject to the prior consent of the "local governing body" within whose jurisdiction there exists a "sewer system" constructed, operated and maintained by a sewerage disposal corporation organized pursuant to the transportation corporations law, may acquire by purchase, gift, dedication, condemnation or otherwise such "sewer system" from, or all of the stock of, such "sewerage disposal corporation", and when authorized by the county board of supervisors may expend county funds for the acquisition of such "sewer system", and thereafter may operate, manage and maintain said "sewer system". The terms "local governing body", "sewer system" and "sewerage disposal corporation" being defined in article ten of the transportation corporations law. The board of supervisors may finance in whole or in part, pursuant to the local finance law, any expenditures made pursuant to this section. Subject to confirmation by the board of supervisors, the county sewer agency may impose sewer rents as provided by the general municipal law, provided that before any such sewer rents are finally established, the county sewer agency shall hold at least one public hearing thereon. Appeals may be taken from any rate fixing determination of the county sewer agency to the board of supervisors. The board of supervisors shall prescribe the manner of holding

such hearings and of taking appeals. The provisions of section two hundred sixty-six of this chapter shall apply to the imposition, collection and application of sewer rents by the county sewer agency hereunder.

CREDIT(S)

(Added L.1965, c. 1069, § 2. Amended L.1966, c. 307, § 2; L.1969, c. 978; L.1981, c. 761, § 4; L.1984, c. 622, § 7.)

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Derivation

Former § 252, added L.1963, c. 1018; amended L.1964, cc. 57, 751; and repealed L.1965, c. 1069, § 2.

CROSS REFERENCES

Sewage-works corporations, see Transportation Corporations Law § 115 et seq.  
Sewer Rent Law, see General Municipal Law § 450 et seq.

LIBRARY REFERENCES

2004 Main Volume

Counties ¶21.5, 86, 93.  
Drains ¶18.  
Health ¶354.  
Waters and Water Courses ¶183.5.  
Westlaw Topic Nos. 104, 137, 198H, 405.  
C.J.S. Counties §§ 39 to 40, 125, 131.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Waters §§ 543 to 581.

RESEARCH REFERENCES

Encyclopedias

NY Jur. 2d, Water § 308, County Lake Protection and Rehabilitation Districts.

NY Jur. 2d, Water § 538, Creation of County Water Agency.

NY Jur. 2d, Water § 796, County Agency.

NOTES OF DECISIONS

Retention of counsel 1  
Stock purchases 2

1. Retention of counsel

A county sewer district may retain legal counsel on an annual retainer basis. Op.State Compt. 79-12.

2. Stock purchases

Neither a town nor the Suffolk County sewer agency may purchase the stock of a sewerage disposal corporation in lieu of acquiring the assets thereof. Op.State Compt. 68-51.

McKinney's County Law § 252, NY COUNTY § 252

Current through L.2012, chapters 1 to 447.

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Effective: December 1, 2010

McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)

■ Chapter 11. Of the Consolidated Laws

■ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→→ § 253. Preparation of maps and plans

1. A petition may be presented to the board of supervisors requesting that a certain area or areas of the county be established as a county district. Such petition shall be executed and acknowledged on behalf of a municipality or district, any part of which is included within such area or areas, by the chief executive officer of such municipality, or of such district furnishing a similar service as the district to be established hereunder. In lieu of execution of the petition by the chief executive officer of such municipality or district, the petition may be executed and acknowledged by at least twenty-five owners of taxable real property of record situated within such municipality or district, or in Suffolk county, if all of the taxable real property of record situate within such municipality which is to be included within a certain area or areas of the county to be established as a county district is owned by one or more but less than twenty-five owners, then the petition may be executed and acknowledged by one or more of said owners within the area or areas to be established as a county district. Upon presentation of such a petition or on its own motion, the board of supervisors may direct the agency to cause maps and plans to be prepared for a project as requested in the petition or for the establishment of a certain area or areas of the county as a county district, provided, however, that if the petitioning municipality, district or owners of taxable property undertake to furnish or pay the cost of such maps and plans at its or their cost and expense, the board of supervisors shall direct the agency to accept or prepare the same. In the case of a petition to create or extend a water quality treatment district, the petition may be executed and acknowledged by one or more of the owners of taxable real property of record situated within such municipality whose private well water is contaminated. At the time the petition is executed and acknowledged, notice and copy of such petition shall be submitted to the state department of health. Such maps or plans shall show (1) the boundaries of the area or areas which the agency in its judgment considers will be benefited by the particular project, (2) a description of the area or areas sufficient to permit definite and conclusive identification of all parcels of property included therein, (3) the proposed location of all facilities such as (a) reservoirs, stand pipes, wells, pumping stations, water purification or treatment works, mains and hydrants, the source of water supply, a description of the lands, streams, water or water rights to be acquired and the mode of constructing the proposed water works, (b) benefited parcels of properties with water quality treatment units or devices installed prior to the formation of the district and/or those properties requiring installation of water quality treatment units or devices and the mode and frequency of testing, monitoring, modifying if required, operation and maintenance, regenerating of such water quality treatment units or devices and the administering of the treatment and disposal of residuals and any other requirements pursuant to rules and regulations adopted by the public health and health planning council under section two hundred twenty-five of the public health law. Any water quality treatment unit or device which has been installed prior to the formation of the district must be approved pursuant to rules and regulations adopted by the public health and health planning council under section two hundred twenty-five of the public health law, prior to acceptance of such unit or device and its benefited property within the district, (c) trunk, interceptor and outfall sewers, pumping stations, sewage treatment and disposal works, (d) properties requiring construction or replacement of private on-site wastewater disposal systems and the mode and frequency of conveying, treating and disposing of wastewater and residual wastewater, (e) drains, ditches, channels, pumping stations, dams, dikes, bulkheads and retaining walls, or (f) refuse disposal and incinerator plants and all necessary appliances appurtenant thereto, (4) estimates of the cost of construction, or procurement and installation of the facil-

ities, and/or in the case of water quality treatment districts, estimates of the costs of monitoring, testing, modifying, if required, operation and maintenance, regenerating of such water quality treatment units or devices and the treatment and disposal of residuals, as shown on the maps and plans and the method of financing the same and (5) an evaluation of rehabilitation needs based upon water quality, public use and private development, special wildlife, scenic or other values, sedimentation, shoreland zoning, potential for adequate pollution and erosion controls within the drainage basin, and potential for future successful management. Such maps and plans pertaining to sewer districts shall be consistent with, so far as possible, any comprehensive plan for sewers developed pursuant to section 17-1901 of the environmental conservation law. Such maps and plans pertaining to water districts shall be consistent with, so far as possible, any comprehensive plan for public water supply systems developed pursuant to title thirteen of article fifteen of the environmental conservation law.

2. If the report of the agency required by section two hundred fifty-four of this chapter shall contain recommendations for the establishment of two or more zones of assessment within a county district, such maps and plans shall show the boundaries of each of such zones and the estimated initial allocation of the cost of the construction of the facilities recommended to be charged to each of such zones.

3. Where acceptable maps, plans and related data have theretofore been prepared by or for one or more existing or proposed municipal special or improvement districts, the board of supervisors may, instead, authorize the agency to adopt and utilize such maps, plans and data and, where a county district is thereafter established and facilities constructed thereby on the basis of such maps, plans and data, the district shall reimburse the municipalities, districts or persons who have paid for all or part of the cost of such maps, plans and data in a reasonable amount to be agreed upon among them, which amount shall not exceed their net expenditures therefor, and shall not include any portion of the cost paid from federal or state aid and which amount, when paid, shall be deemed part of the cost of the construction of the facilities by the agency.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1964, c. 57; L.1964, c. 751, § 1; L.1969, cc. 423, 685; L.1980, c. 388, § 28; L.1981, c. 761, § 5; L.1984, c. 622, § 8; L.2010, c. 58, pt. A, § 74, eff. Dec. 1, 2010.)

#### HISTORICAL AND STATUTORY NOTES

2004 Main Volume

#### Derivation

Former §§ 253, 279, and 299-b. Former § 253 was added L. 1953, c. 868; amended L.1958, c. 346, § 1; L.1962, cc. 216, 851; L.1963, c. 520, § 10; and repealed L.1963, c. 1018, § 4. Former § 279, formerly § 278, was added L.1954, c. 794; renumbered § 279, L.1955, c. 449, § 2; amended L.1958, c. 346, § 3; L.1960, c. 1059; L.1961, c. 453; L.1962, c. 320, § 10; and repealed L.1963, c. 1018, § 4. Former § 299-b was added L.1955, c. 429; amended L.1958, c. 346, § 6; L.1962, c. 216, § 2; and repealed L.1963, c. 1018, § 4.

#### CROSS REFERENCES

Sewers, maps and plans, see General Municipal Law § 120-n.

#### LIBRARY REFERENCES

2004 Main Volume

Counties ↪ 21.5, 47.  
Drains ↪ 18, 43.  
Health ↪ 354.  
Waters and Water Courses ↪ 183.5.  
Westlaw Topic Nos. 104, 137, 198H, 405.  
C.J.S. Counties §§ 39 to 40, 70 to 73.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Waters §§ 543 to 581.

## RESEARCH REFERENCES

### Encyclopedias

NY Jur. 2d, Taxation & Assessment § 897, Maps, Plans, and Specifications of Improvement.

NY Jur. 2d, Water § 308, County Lake Protection and Rehabilitation Districts.

NY Jur. 2d, Water § 539, Petition; Preparation of Maps and Plans.

NY Jur. 2d, Water § 797, Petition; Preparation of Maps and Plans.

## NOTES OF DECISIONS

Compliance with plan 2  
Petition, generally 1

### 1. Petition, generally

The County Board of Supervisors is empowered to initiate formation of a county refuse disposal district on its own motion. 1967, Op.Atty.Gen. (Inf.) 117.

The formation of a county sewer district must be initiated by petition. 13 Op.State Compt. 219, 1957, 1st case.

### 2. Compliance with plan

Cities, counties, towns, and villages may refuse sewage wastes from particular users and may refuse sewage wastes from any community not complying with applicable area-wide waste treatment plan. 1978, Op.Atty.Gen. 46.

McKinney's County Law § 253, NY COUNTY § 253

Current through L.2012, chapters 1 to 447.

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**Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)■ Chapter 11. Of the Consolidated Laws■ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)→ → **§ 254. Public hearing; cost to typical property**

1. When the agency has caused such maps and plans to be prepared, it shall transmit them to the board of supervisors, together with a report of its proceedings and its recommendations, including a recommendation as to what officer, board or body should be the administrative head or body of the proposed district. Such report may further include the recommendations relating to the establishment of two or more zones of assessment within the proposed district and the estimated initial allocation of the cost of the construction of the facilities as between such zones to be assessed, levied and collected in each zone in the same manner and at the same time as other county charges. Upon receipt of the report and the maps and plans, the board of supervisors shall call a public hearing upon a proposal to establish a county district, to comprise the area or areas described and defined in said maps and plans. No public hearing shall be called to establish a water quality treatment district until the maps and plans have been submitted to and approved in writing by the state department of health. Copy of such notice of approval or denial of the maps and plans shall be filed in the office of the clerk of the board of supervisors of the county in which the proposed district is located. The clerk of the board of supervisors shall cause a notice of the public hearing to be published at least once in the official newspapers of the county and in such other newspapers having a general circulation in the proposed district as the board may direct, the first publications thereof to be not less than ten or more than twenty days before the day set therein for the hearing. The notice of hearing shall contain a description of the area or areas to be included within the proposed district, and if the report shall have recommended the establishment of zones of assessment, a description of the area or areas to be included within each zone of assessment, the improvements proposed, the maximum amount to be expended for the improvement, the estimated cost of hook-up fees, if any, to, and the cost of the district or extension to, the typical property and, if different, the typical one or two family home, the allocation of such maximum amount as between the zones of assessment recommended, if any, the proposed method of assessment of the cost and shall specify the time when and place where the board of supervisors will meet to consider the matter and to hear all parties interested therein concerning the same. In the event that zones of assessment are provided for and an allocation of cost of the facilities between such zones of assessment, said notice shall further state that said zones of assessment and said allocations of cost may be changed from time to time by resolution of the board of supervisors adopted after a public hearing whenever said board of supervisors shall determine that such changes are necessary in the public interest. Prior to the publication of the notice of hearing, the board of supervisors shall cause to be prepared, and file for public inspection with the county clerk, a detailed explanation of how the estimated cost of hook-up fees, if any, to, and the cost of the district or extension to, the typical property and, if different, the typical one or two family home was computed.

2. (a) If the permission of the state comptroller is not required pursuant to section two hundred fifty-eight, two hundred sixty-eight or two hundred sixty-nine of this article because it is proposed or required that the county in in [FN1] which the district is located shall finance the proposed cost by the issuance of bonds, notes, certificates, or other evidences of indebtedness of the county therefor or shall assume the payment of annual installments of debt service on obligations issued to finance the cost of facilities pursuant to section two hundred sixty-two of this article but the cost to typical property or, if different, the cost to the typical one or two family home is not above the average cost threshold de-

scribed in those sections, a certified copy of the notice of hearing shall also be filed with the state comptroller on or about the date of publication of the notice.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the state comptroller shall not be precluded from requiring the submission of additional information or data in such form and detail as the state comptroller shall deem sufficient or from causing an investigation to be made with respect to the establishment or extension of a district or an increase in the maximum amount to be expended.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1984, c. 622, § 10; L.1995, c. 397, § 9.)

[FN1] So in original.

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 254 and 280. Former § 254 was added L.1953, c. 868; amended L.1958, c. 346, § 1; L.1962, c. 851, § 2; and repealed L.1963, c. 1018, § 4, eff. Sept. 1, 1963. Former § 280, formerly § 279, was added L.1954, c. 794; renumbered § 280, L. 1955, c. 449, § 2; amended L.1958, c. 346, § 3; and repealed L.1963, c. 1018, § 4, eff. Sept. 1, 1963.

#### CROSS REFERENCES

Levy and collection of real property taxes, see RPTL § 900 et seq.

#### LIBRARY REFERENCES

##### 2004 Main Volume

Counties  21.5, 89.

Drains  18.

Waters and Water Courses  183.5.

Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties §§ 39 to 40, 130.

C.J.S. Drains §§ 16 to 22.

C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

##### Encyclopedias

NY Jur. 2d, Taxation & Assessment § 757, Sewer Systems and Plants.

NY Jur. 2d, Taxation & Assessment § 874, Zone Rate.

NY Jur. 2d, Taxation & Assessment § 942, Publication of Notice.

NY Jur. 2d, Taxation & Assessment § 949, Information as to Improvement.

NY Jur. 2d, Water § 540, Report to Board of Supervisors.

NY Jur. 2d, Water § 541, Hearing and Determination; Permissive Referendum.

NY Jur. 2d, Water § 798, Report to Board of Supervisors.

NY Jur. 2d, Water § 799, Public Hearing.

Forms

McKinney's Forms, Local Gov't, County Law § 254 Form 1, Resolution Authorizing Public Hearing Upon Proposal to Establish County Sewer District.

McKinney's County Law § 254, NY COUNTY § 254

Current through L.2012, chapters 1 to 447.

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**C****Effective:[See Text Amendments]**

McKinney's Consolidated Laws of New York Annotated Currentness  
 County Law (Refs & Annos)

▣ Chapter 11. Of the Consolidated Laws

▣ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→→ **§ 255. Representation by municipalities and district**

At the public hearing on the establishment of a county district which includes the whole or any part of a city, village or such district furnishing a similar service as the proposed district, the inhabitants of such city, village or district may be represented jointly by an officer or official of the municipality or district duly designated by the governing body of the municipality or district to attend.

CREDIT(S)

(Added L.1963, c. 1018, § 1.)

#### HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Derivation

Former §§ 255 and 281. Former § 255 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4. Former § 281, formerly § 280, was added L.1954, c. 794; renumbered § 281, L.1955, c. 449, § 2; and repealed L.1963, c. 1018, § 4.

#### LIBRARY REFERENCES

2004 Main Volume

Counties ↪ 21.5.

Drains ↪ 18.

Waters and Water Courses ↪ 183.5.

Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties §§ 39 to 40.

C.J.S. Drains §§ 16 to 22.

C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

Encyclopedias

NY Jur. 2d, Water § 541, Hearing and Determination; Permissive Referendum.

NY Jur. 2d, Water § 799, Public Hearing.

McKinney's County Law § 255, NY COUNTY § 255

Current through L.2012, chapters 1 to 447.

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Effective:[See Text Amendments]

McKinney's Consolidated Laws of New York Annotated CurrentnessCounty Law (Refs & Annos)Chapter 11. Of the Consolidated LawsArticle 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→ → § 256. Establishment of a county district

Upon the evidence presented at the public hearing, and after due consideration of the maps and plans, reports, recommendations and other data filed with it, the board of supervisors shall determine, by resolution, whether or not the proposed facilities are satisfactory and sufficient and, if it shall determine such question in the negative, it shall remand the proceedings to the agency for further study. The agency shall make such further study and amend and revise the maps and plans (including the zones of assessment and allocation of costs if the maps and plans provide therefor) in conformance with its findings, and shall make a further report to the board of supervisors in the same manner as hereinbefore provided. If the revised maps and plans call for an increase in the estimated maximum expenditure for the project, alter the boundaries of the proposed district, or if the maps and plans provide for zones of assessment and allocation of the cost of the facilities, alter the boundaries of the proposed zones of assessment or change the allocation or the costs of the facilities as between the zones of assessment, the board of supervisors shall call a further public hearing thereon in the manner provided in section two hundred fifty-four. When the board of supervisors shall find that the proposed facilities are adequate and appropriate, it shall further determine by resolution, (1) whether all the property and property owners within the proposed district are benefited thereby, (2) whether all of the property and property owners benefited are included within the limits of the proposed district, (3) whether it is in the public interest to establish the district and (4) if said maps and plans and report recommended the establishment of zones of assessment and the allocation of the costs of the facilities as between such zones of assessment, whether such zones of assessment and the allocation of the costs of the facilities thereto represent as nearly as may be the proportionate amount of benefit which the several lots and parcels of land situate in such zones will derive therefrom.

If the board of supervisors shall determine that it is in the public interest to establish the district, but shall find that (1) any part or portion of the property or property owners within the proposed district are not benefited thereby or (2) that certain property owners benefited thereby have not been included therein, or (3), if zones of assessment are proposed to be established and the costs of facilities allocated among said zones of assessment, that any part or portion of the property or property owners within a proposed zone of assessment should be placed in a different zone of assessment or that a different allocation of the cost should be made as between the zones of assessment, the board shall specify the necessary changes of the boundaries of the proposed district or the necessary changes of the boundaries of any proposed zone of assessment or the necessary changes as to the allocation of costs, as the case may be, to be made in order that all of the property and property owners and only such property owners as are benefited shall be included within such proposed district, or in order that such zones of assessment and the allocation of the costs of the facilities thereto shall represent as nearly as may be the proportionate amount of benefit which the several lots and parcels of land situate in such zones will derive therefrom, 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 published in the manner provided in section two hundred fifty-four, except that such notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district, or the boundaries of the zones of assessment or the allocation of the costs of the facilities as between said zones of assessment, as the case may be. If and when the board shall determine in the affirmative all of the questions set forth above, the board may adopt a resolution

approving the establishment of the district, as the boundaries shall be finally determined, and the construction of the improvement, and if zones of assessment have been established and an allocation of the costs of the facilities made as between such zones of assessment, further approving the establishment of the initial zones of assessment and the initial allocation of the costs of the facilities as between said zones of assessment. Such resolution shall be subject to permissive referendum as hereinafter provided, except in the case of a water quality treatment district and except in the county of Suffolk. In the county of Suffolk, if the owner or owners of all of the land within the proposed district consent in writing to the formation of the proposed district and the board of elections certify that on or after the date of the first publication of the notice of public hearing hereinabove referred to, there is no registered voter within the proposed district, then and in that case the resolution adopted by the board approving the establishment of a district shall not be subject to referendum, permissive, or otherwise.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1964, c. 751; L.1971, c. 837; L.1984, c. 622, § 11.)

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 256, 282, and 299-c. Former § 256 was added L.1953, c. 868; amended L.1958, c. 346, § 1; L.1962, c. 851, § 3; and repealed L.1963, c. 1018, § 4. Former § 282, formerly § 281, was added L.1954, c. 794; renumbered § 282 and amended L.1955, c. 449, § 3; L.1958, c. 346, § 4; and repealed L.1963, c. 1018, § 4. Former § 299-c was added L.1955, c. 429; amended L.1958, c. 346, § 2; L.1962, c. 216, § 3; and repealed L.1963, c. 1018, § 4.

#### CROSS REFERENCES

Suffolk and Erie counties, establishment of districts, see County Law § 277.

#### LIBRARY REFERENCES

##### 2004 Main Volume

Counties ↪ 18, 21.5, K54.  
Drains ↪ 18.  
Waters and Water Courses ↪ 183.5.  
 Westlaw Topic Nos. 104, 137, 405.  
C.J.S. Counties §§ 31 to 33, 39 to 40.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

##### ALR Library

135 ALR 1305, Validity of Statutory or Municipal Regulations as to Garbage.

##### Encyclopedias

NY Jur. 2d, Water § 541, Hearing and Determination; Permissive Referendum.

NY Jur. 2d, Water § 800, Determination; Permissive Referendum.

## Forms

McKinney's Forms, Local Gov't, County Law § 256 Form 1, Resolution Approving Establishment of County Sewer District.

## NOTES OF DECISIONS

Area included 2  
 Construction and application 1  
 Joint districts 3

### 1. Construction and application

Resolution of county board of supervisors relating to establishment of refuse disposal district, which board directed be submitted to electors, was properly before voters at referendum, notwithstanding inclusion of amendment pertaining to county's arrangements with city in which proposed facility was to be located, where amendment was insubstantial and was publicized according to law prior to election. Crell v. O'Rourke (2 Dept. 1982) 88 A.D.2d 83, 452 N.Y.S.2d 262, affirmed 57 N.Y.2d 702, 454 N.Y.S.2d 707, 440 N.E.2d 792. Counties  55

There is no authority for the legislative body of a county to provide sewer, water or drainage facilities to any area thereof without preliminarily establishing a special district. Op.State Compt. 68-1077.

A municipality which does not wish to be included in the formation of a county sewer district may object at the hearing or may petition for a court review. 13 Op.State Compt. 219, 1957.

### 2. Area included

The area of an existing county sewer district created under this article may not be diminished. 1978, Op.Atty.Gen. (Inf.) 316. See, also, 32 Op.State Compt. 56, 1976.

At a permissive referendum called to vote upon the question of establishing a proposed county sewer district, if a majority of the voters within that area of one of the towns included within the geographical area of such proposed district vote against the establishment of the district, but the proposition passes by a majority vote in the other three municipalities affected, so that the total vote favors the proposition, such town is bound by the majority vote and must remain within the jurisdiction of the district. 33 Op.State Compt. 5, 1977.

A county water district may be established to include a village and parts of two adjacent towns. 13 Op.State Compt. 114, 1957, 2nd case.

### 3. Joint districts

A county is not authorized to establish a joint water/sewer district with all of the purposes and powers of water districts and sewer districts combined. 1978, Op.Atty.Gen. (Inf.) 299.

Pursuant to General Municipal Law § 119-0, a county or water district may assist in providing sewer or water improvements by entering into joint sewer or water project agreements with another municipality or district. Op. State Compt. 84-63.

A town water district may consolidate with a village water system to establish a county water district which includes territory in a village and in a town outside the village. 10 Op.State Compt. 47, 1954.

McKinney's County Law § 256, NY COUNTY § 256

Current through L.2012, chapters 1 to 447.

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**Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)    Chapter 11. Of the Consolidated Laws        Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)            →→ § 257. **Permissive referendum**

1. The provisions of sections one hundred one and one hundred two of this chapter and the applicable provisions of the election law as to conduct of elections and qualifications of voters shall apply to permissive referenda conducted hereunder, except that only those electors shall be qualified to sign a petition and to vote who are resident within an area included in the proposed county district, and provided further that the number of signatures required on the petition shall be one hundred or five per centum of the owners of taxable real property situated within the proposed district, whichever shall be less.

2. The clerk of the board of supervisors shall cause to be prepared and have available for distribution proper forms for such petition and shall distribute a supply to any person requesting the same.

3. Where there are no resident electors within an area included in the proposed county district, the referendum may be waived upon certification by the county board of elections that there are no qualified electors.

CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1976, c. 207, § 1.)

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Derivation

Former §§ 257 and 283. Former § 257 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4. Former § 283, formerly § 282, was added L.1954, c. 794; renumbered § 283, L.1955, c. 449, § 4; and repealed L.1963, c. 1018, § 4.

CROSS REFERENCES

    Conduct of elections, see Election Law § 8-100 et seq.    Qualifications of voters, see Election Law §§ 5-102 to 5-106.

LIBRARY REFERENCES

2004 Main Volume

Counties ↪ 55.  
Drains ↪ 18.  
Elections ↪ 72.  
Waters and Water Courses ↪ 183.5.  
Westlaw Topic Nos. 104, 137, 144, 405.  
C.J.S. Counties §§ 87 to 91.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Waters §§ 543 to 581.

## RESEARCH REFERENCES

### Encyclopedias

NY Jur. 2d, Elections § 732, Particular Matters Subject to Referendum.

NY Jur. 2d, Water § 541, Hearing and Determination; Permissive Referendum.

NY Jur. 2d, Water § 800, Determination; Permissive Referendum.

### Forms

McKinney's Forms, Local Gov't, County Law § 256 Form 1, Resolution Approving Establishment of County Sewer District.

## NOTES OF DECISIONS

Majority vote 2  
 Qualifications of voters 1

### 1. Qualifications of voters

To vote at a referendum for the establishment of a county sewer district, a person must be a registered voter living at and who is shown on the registry of voters as residing at an address within the proposed district. 1977, Op.Atty.Gen. (Inf.) 81.

To vote at a referendum on the approval of a county sewer agency, the voter must be registered to vote from the area to be served by the sewer agency and to be registered to vote from the area, he must be domiciled therein. 1969, Op.Atty.Gen. (Inf.) 57.

### 2. Majority vote

At a permissive referendum called to vote upon the question of establishing a proposed county sewer district, if a majority of the voters within that area of one of the towns included within the geographical area of such proposed district vote against the establishment of the district, but the proposition passes by a majority vote in the other three municipalities affected, so that the total vote favors the proposition, such town is bound by the majority vote and must remain within the jurisdiction of the district. 33 Op.State Compt. 5, 1977.

McKinney's County Law § 257, NY COUNTY § 257

Current through L.2012, chapters 1 to 447.

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Effective:[See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)

Chapter 11. Of the Consolidated Laws

Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→ → § 258. Application to the department of audit and control

1. Whenever a resolution approving the establishment of a county district shall have become effective, and it is proposed or required that the county in which such district is located shall finance the cost thereof by the issuance of the bonds, notes, certificates or other evidences of indebtedness of the county therefor, or shall assume the payment of annual installments of debt service on obligations issued to finance the cost of facilities, pursuant to section two hundred sixty-two of this article, and, if the state comptroller shall have computed average estimated costs for similar types of districts, the cost of the proposed district or extension to the typical property or, if different, the cost of the proposed district or extension to the typical one or or [FN1] two family home as stated in the notice of hearing is above the average estimated cost to the typical properties or homes for the establishment or extension of similar types of districts as may be annually computed by the state comptroller, the clerk of the board of supervisors shall file an application in the office of the department of audit and control for permission to establish the district. The state comptroller annually shall provide to counties notice of the average cost thresholds as may be computed in accordance with this section. Such application shall be executed and verified by the chairman of the board of supervisors or such other officer as the board may designate and be in such form and contain such information as may be prescribed by the state comptroller. The state comptroller 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 below mentioned. Upon such application and such other information, data and material which may be submitted, the state comptroller shall determine whether the public interest will be served by the establishment of the district and also whether the cost thereof will be an undue burden upon the property of the proposed district. If such resolution shall have provided for the establishment of zones of assessment and the allocation of the costs of the facilities as between such zones of assessment, the state comptroller shall further determine whether the cost of the facilities allocated to each of said zones of assessment will be an undue burden upon the property of each proposed zone of assessment.

2. Upon completion of the examination of the application and investigation of the project, the state comptroller shall make an order, in duplicate, granting or denying permission for the establishment 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 clerk of the board of supervisors of the county in which the proposed district is located. The clerk of the board of supervisors shall present such order to the board at the next meeting thereof. If the state comptroller shall deny permission for the establishment of the district, no further proceedings shall be taken in the matter. If the state comptroller shall grant permission for the establishment of the district or if such permission is not required, the board of supervisors may adopt an order establishing the district.

CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1991, c. 413, § 48; L.1995, c. 397, § 10.)

[FNI] So in original.

## HISTORICAL AND STATUTORY NOTES

### 2004 Main Volume

#### Derivation

Former §§ 258 and 284. Former § 258 was added L.1953, c. 868; amended L.1962, c. 851, § 4; and repealed L.1963, c. 1018, § 4. Former § 284, formerly § 283, was added L.1954, c. 794; renumbered § 284, L.1955, c. 449, § 4; and repealed L.1963, c. 1018, § 4.

## LIBRARY REFERENCES

### 2004 Main Volume

Counties ↪ 21.5.  
Drains ↪ 18.  
Waters and Water Courses ↪ 183.5.  
Westlaw Topic Nos. 104, 137, 405.  
C.J.S. Counties §§ 39 to 40.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Waters §§ 543 to 581.

## RESEARCH REFERENCES

### Encyclopedias

NY Jur. 2d, Water § 542, Consent of State Comptroller.

NY Jur. 2d, Water § 801, Determination; Permissive Referendum--Consent of State Comptroller.

### Forms

McKinney's Forms, Local Gov't, County Law § 256 Form 1, Resolution Approving Establishment of County Sewer District.

McKinney's Forms, Local Gov't, County Law § 258 Form 1, Application by Board of Supervisors Requesting Permission to Establish County Sewer District.

McKinney's Forms, Local Gov't, County Law § 258 Form 3, Order of Board of Supervisors Establishing County Sewer District.

McKinney's County Law § 258, NY COUNTY § 258

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**C****Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)▣ Chapter 11. Of the Consolidated Laws▣ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)→ → **§ 262. Performance of the work**

After a district shall have been established, the administrative head or body shall cause to be prepared by the county engineer, or other county officer having equivalent qualifications, or a duly licensed engineer employed for that purpose, detailed plans and specifications for the improvement, a careful estimate of the expense, and, with the assistance of the county attorney, or an attorney employed for that purpose, a proposed contract or contracts for the execution of the work. The administrative head or body shall examine such detailed plans, specifications, estimates and contracts and may adopt, modify, amend or reject the same. Upon adoption of the plans, specifications, estimates and proposed contract, the administrative head or body shall cause contracts to be let in the same manner provided for other county construction projects. Nothing herein shall prevent the purchase or condemnation of any existing county system, or portion or portions thereof, whether inside or outside of the county, necessary for the purposes of the county district, provided, however, that there shall be no power to condemn property the legal title to which is vested in a public corporation or a special improvement district unless the owner shall consent thereto. The cost thereof, together with the cost of construction of those facilities proposed to be constructed, shall not exceed the maximum cost of the project as advertised in the notice of hearing published pursuant to section two hundred fifty-four of this article. In the event that a system owned by a municipal corporation or district is purchased, the county may by agreement with the seller, assume the payment of annual installments of principal of, and interest on, obligations issued by the selling municipality to finance the cost of the facilities so sold. If payment of annual installments of debt service is not assumed, as aforesaid, the selling municipality shall set aside in a reserve fund, so much of the purchase price received as is sufficient to meet all future installments of principal of, and interest on, outstanding obligations issued by it to finance the cost of the facilities sold. Moneys in such a reserve fund may be invested as provided in section eleven of the general municipal law.

CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1992, c. 708, § 15.)

## HISTORICAL AND STATUTORY NOTES

2004 Main Volume

## Derivation

Former §§ 262 and 288. Former § 262 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4. Former § 288, formerly § 287, was added L.1954, c. 794; renumbered § 288 and amended L.1955, c. 499, § 5; and repealed L.1963, c. 1018, § 4.

## CROSS REFERENCES

Limitation of acquisition of water rights in certain counties, see General Municipal Law §§ 75, 76.

## LIBRARY REFERENCES

### 2004 Main Volume

Counties  18, 21.5, 104, 114, 161.

Drains  18.

Eminent Domain  46.

Waters and Water Courses  183.5.

Westlaw Topic Nos. 104, 137, 148, 405.

C.J.S. Counties §§ 31 to 33, 39 to 40, 144, 148, 161, 195.

C.J.S. Drains §§ 16 to 22.

C.J.S. Eminent Domain § 61.

C.J.S. Waters §§ 543 to 581.

## RESEARCH REFERENCES

### Encyclopedias

NY Jur. 2d, Public Securities § 144, Assumption of Liability on Outstanding Obligations Issued by Another Political Unit; Annexation, Consolidation, or Dissolution.

NY Jur. 2d, Water § 546, Powers and Duties of Administrative Head or Body.

NY Jur. 2d, Water § 801, Determination; Permissive Referendum--Consent of State Comptroller.

NY Jur. 2d, Water § 806, Powers and Duties of Administrators--Contracts for Construction and Services.

## NOTES OF DECISIONS

Construction and application 1

1, Construction and application

Pursuant to this section, the county has the power to acquire village sewer facilities. Op.State Compt. 78-286.

Contracts relating to the capital construction and the increase and improvement of facilities of a county sewer district shall be let or awarded by the administrative head or body, but such contracts must be executed on behalf of the district, by the county legislature through its chairman or other officer to whom the power to execute contracts has been duly delegated. 28 Op.State Compt. 78, 1972.

McKinney's County Law § 262, NY COUNTY § 262

Current through L.2012, chapters 1 to 447.

## C

Effective:[See Text Amendments]

McKinney's Consolidated Laws of New York Annotated Currentness

County Law (Refs & Annos)

■ Chapter 11. Of the Consolidated Laws

■ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→ → § 263. Powers

The administrative head or body may acquire by gift, lease, purchase or condemnation, real estate and easements, rights of way or other interests therein necessary or proper for the purposes of the district. In Suffolk county it may acquire by gift, lease or purchase personally or it may accept the gift of a sum of money necessary or proper for the purposes of the district. In water quality treatment districts, it may request, receive and administer grants and other sums of money necessary or proper for the purposes of the district. In the county of Oneida, it may grant easements or rights of way necessary or proper for the purposes of the district. It may (1) construct, reconstruct, improve or repair facilities in or under the surface of any highway in the county or in another county for the purpose of transporting water, sewage or drainage to or within the county district, and shall cause such highway to be restored to its usual condition at the expense of the district, or (2) provide for the collection and disposition of garbage, ashes, rubbish and other waste matter in such district, and for that purpose may provide for the construction, operation and maintenance of all necessary appliances appurtenant thereto, including such vehicles as may be required for the collection and disposition of garbage, ashes, rubbish and other waste matter. No facilities shall be laid under any county parkway, county road, town highway or city or village street without the consent of the officer or body having jurisdiction over, and control thereof, and, in the case of the state thruway, state parkways, state highways, county roads or county parkways, or highways constructed pursuant to section one hundred ninety-four, section one hundred ninety-five or article six of the highway law, in addition to such consents, the consent of the state commissioner of transportation or other state officer or body having jurisdiction over and control thereof.

The administrative head or body of a county sewer district may acquire by condemnation from railroad corporations, real estate and easements, rights of way or other interests of such railroad corporations necessary or proper for the purposes of the district, provided, however, that in the event the railroad objects to such condemnation on the ground that it will interfere with the safe and uninterrupted maintenance and operation of the railroad, the railroad shall have thirty days after receipt of notice of such condemnation to request a hearing before the commissioner of transportation. The commissioner of transportation shall give the railroad and the district notice of not less than ten days of the time and place scheduled for such hearing. The commissioner of transportation, after hearing the evidence shall decide whether such condemnation is permissible and in the public interest, and whether an order permitting the county sewer district to enter upon said railroad lands to perform such work is necessary and proper; such order shall also include terms protecting the railroad in safe and uninterrupted maintenance and operation of said railroad during the performance of any work on railroad lands by employees and agents of the sewer district if their entry upon railroad lands for such work is deemed necessary by the commissioner's order. The determination of the commissioner shall be subject to judicial review pursuant to article seventy-eight of the civil practice law and rules.

The administrative head or body of any county water district on behalf of such county water district, with the approval of the board of supervisors of such county, a county water authority, any city, any town on behalf of a town water district, and any village which own and operate water systems may enter into contracts providing for interconnections of such water systems, regulating the sale of water, or the purchase of water, by any of the parties to the contract to

another party to the contract, which contracts may contain such other further covenants, agreements, terms and conditions which the contracting parties deem necessary or desirable for the efficient and economical operation of the respective water systems of the parties to the contract, provided, however, that no such contract shall relate to an area then being served by any such county water district, county water authority, city, town water district or village without the consent of the governing board of the district, authority, city or village, as the case may be. Any such contract shall be subject to the approval of the water resources commission.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1964, c. 751, § 5; L.1968, c. 420, § 89; L.1968, c. 1066; L.1969, c. 977; L.1977, c. 842, § 1; L.1984, c. 622, § 12.)

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 263 and 289. Former § 263 was added L.1953, c. 868; amended L.1962, c. 851, § 5; and repealed L.1963, c. 1018, § 4. Former § 289, formerly § 288, was added L.1954, c. 794; renumbered § 289 and amended L.1955, c. 499, § 5; and repealed L.1963, c. 1018, § 4.

#### LIBRARY REFERENCES

##### 2004 Main Volume

Counties  21.5, 104, 114.  
Drains  18.  
Eminent Domain  46.  
Municipal Corporations  711.  
Waters and Water Courses  183.5.  
Westlaw Topic Nos. 104, 137, 148, 268, 405.  
C.J.S. Counties §§ 39 to 40, 144, 148, 161.  
C.J.S. Drains §§ 16 to 22.  
C.J.S. Eminent Domain § 61.  
C.J.S. Municipal Corporations §§ 1535, 1538.  
C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

##### Encyclopedias

71 Am. Jur. Proof of Facts 3d 97, Eminent Domain: Proof of Lack of Reasonable Necessity for Taking of Property.

NY Jur. 2d, Water § 546, Powers and Duties of Administrative Head or Body.

NY Jur. 2d, Water § 805, Powers and Duties of Administrators.

## Forms

Carmody-Wait, 2d § 145:570, Commissioner of Transportation Decisions on Acquiring Land for Sewer Districts.

McKinney's Forms, Local Gov't, County Law § 263 Form 2, Petition in Article 78 Proceeding to Review and Annul Order of Commissioner of Transportation for Acquisition by County Sewer District, Through Condemnation, of Railroad Corporation's Real...

## NOTES OF DECISIONS

- Condemnation 2
- Dedication 3
- Liability 5
- Payments for acquisitions 4
- Powers, generally 1

1. Powers, generally

Function of a county sewer district is solely an administrative one. Tom Sawyer Motor Inns, Inc. v. Chemung County Sewer Dist. No. 1 (3 Dept. 1969) 33 A.D.2d 720, 305 N.Y.S.2d 408. Counties ¶22

Powers conferred by statute on administrative unit of a county government are not powers exercised by districts as if they were separate and independent governmental units; such powers are subject to overall control of the County Board of Supervisors. Tom Sawyer Motor Inns, Inc. v. Chemung County Sewer Dist. No. 1 (3 Dept. 1969) 33 A.D.2d 720, 305 N.Y.S.2d 408. Counties ¶18

2. Condemnation

Approval of city common council was not required, before county could condemn city land in order to construct water treatment plant mandated under terms of amended consent judgment resolving environmental litigation. Atlantic States Legal Foundation v. Onondaga County Department of Drainage and Sanitation, 2001, 233 F.Supp.2d 335. Eminent Domain ¶169

Public use doctrine did not bar county from condemning city land for construction of water treatment plant, mandated by amended consent judgment resolving environmental litigation, despite claim that land was already in public use, as site for public housing and recreational facilities; due to concerns about sewage discharge into nearby lake, new sewage plant was superior public use which trumped other public uses. Atlantic States Legal Foundation v. Onondaga County Department of Drainage and Sanitation, 2001, 233 F.Supp.2d 335. Eminent Domain ¶32; Eminent Domain ¶55

County had authority to condemn land owned by city, for purpose of constructing water treatment plant mandated under terms of amended consent judgment resolving environmental litigation. Atlantic States Legal Foundation v. Onondaga County Department of Drainage and Sanitation, 2001, 233 F.Supp.2d 335. Eminent Domain ¶9; Eminent Domain ¶45

The general delegation of the power of condemnation contained in this section may not in the absence of express legislative authority permit condemnation of property already devoted to public use. 1969 Op.Atty.Gen. 171.

When a county sewer district condemns property, the administrative head or body of the district, not the board of

supervisors, files the petition in the name of the district. Op.State Compt. 68-90.

Land for county small watershed protection district purposes may be condemned within a city without the consent of the city except that if title to the land is vested in the city the consent of the city is required. 16 Op.State Compt. 85, 1960.

### 3. Dedication

Use of improved parcel for purpose of operating a pumping station and connection of subdivision sewers to sewer district was an appropriate public use and the district was the appropriate public body to accept the deed for purpose of dedication and fact that developer may also have derived a benefit in that it was relieved of burden of operating and maintaining the pumping station did not negate the existence of the requisite intent to dedicate. Domus Development Corp. v. Monroe County Pure Water (4 Dept. 1981) 84 A.D.2d 929, 446 N.Y.S.2d 701. Dedication 4; Dedication 15; Dedication 35(1)

### 4. Payments for acquisitions

A county sewer district is not required to pay for "easements" or "rights of way" granted to it by the town in connection with the installation of its sewers under town roads. Op.State Compt. 71-402.

### 5. Liability

No basis existed for a judgment against defendant sewer district, which was not suable at law, since no statute defined it as any type of quasi corporation. Tom Sawyer Motor Inns, Inc. v. Chemung County Sewer Dist. No. 1 (3 Dept. 1969) 33 A.D.2d 720, 305 N.Y.S.2d 408. Counties 22

A county and one of its improvement districts may, as part of a land purchase contract, agree to indemnify the seller for any injury or damage resulting from the negligence of the county or the district of their agents and they may also agree to purchase liability insurance to cover this obligation. Op.State Compt. 80-412.

McKinney's County Law § 263, NY COUNTY § 263

Current through L.2012, chapters 1 to 447.

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McKinney's Consolidated Laws of New York Annotated Currentness  
 County Law (Refs & Annos)

Chapter 11. Of the Consolidated Laws

Article 5-A, County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→→ **§ 264. Rules and regulations**

The board of supervisors shall have power to adopt, amend and repeal, from time to time, rules and regulations for the operation of a county district and the use of water in a water district including regulation of the manner of making connections and the construction of the county system and all facilities and appurtenances.

## CREDIT(S)

(Added L.1963, c. 1018, § 1.)

## HISTORICAL AND STATUTORY NOTES

2004 Main Volume

## Derivation

Former §§ 264 and 290. Former § 264 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4. Former § 290, formerly § 289, was added L.1954, c. 794; renumbered § 290, L.1955, c. 449, §§ 6, 8; and repealed L.1963, c. 1018, § 4.

## LIBRARY REFERENCES

2004 Main Volume

Counties ↪ 21.5, 47.

Waters and Water Courses ↪ 183.5, 193, 194, 202.

Westlaw Topic Nos. 104, 405.

C.J.S. Counties §§ 39 to 40, 70 to 73.

C.J.S. Waters §§ 530 to 581, 602, 606 to 611, 616, 640, 643, 646, 651, 656, 659 to 665.

## RESEARCH REFERENCES

## Encyclopedias

NY Jur. 2d, Water § 547, Generally; Increase and Improvement of Facilities.

NY Jur. 2d, Water § 670, County Water Districts.

NY Jur. 2d, Water § 804, Generally; Administrators of County District.

#### NOTES OF DECISIONS

##### Construction and application 1

##### 1. Construction and application

Trustees of carpenters' apprentice fund that owned building and rented land within refuse disposal district and hired private carter to collect and dispose of its solid waste had standing to maintain action challenging rules and regulations governing solid refuse disposal in county, where fund paid real estate taxes on property it rented that apparently included ad valorem tax and user fee imposed to finance operations of district under lease, abuse of procedural safeguards contained in county law article might cause fund injury by way of increased carting fees, and fund was within zone of interest sought to be protected by those procedural safeguards. Pelliccio v. Axelrod (2 Dept. 1987) 129 A.D.2d 76, 516 N.Y.S.2d 940. Counties ↩ 196(1)

The county board of supervisors retains significant control over improvement districts after their formation. Op.Atty.Gen. (Inf.) 03-5.

McKinney's County Law § 264, NY COUNTY § 264

Current through L.2012, chapters 1 to 447.

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**Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated Currentness

County Law (Refs &amp; Annos)

■ Chapter 11. Of the Consolidated Laws■ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)→ → **§ 266. Water rates, water quality treatment, sewage, wastewater disposal and refuse collection charges and revenues**

1. Subject to confirmation by the board of supervisors, the administrative head or body: (a) may establish, from time to time, wholesale and retail rate schedules for water sold to, or a scale of charges for the collection, conveyance, treatment and disposal of sewage, wastewater or refuse from, public corporations, improvement districts, commercial and industrial users and individuals to be determined on any equitable basis including but not limited to a system of classification which, for purposes of establishing differential rates, charges or rentals, may allocate among areas within the district designated by the administrative head or body, the costs of establishment of the district, the furnishing of improvements therein and operation and maintenance of district facilities or any combination thereof; or (b) may impose sewer rents as provided by the general municipal law. Before any such schedules are finally established, the administrative head or body shall hold at least one public hearing thereon. Appeals may be taken from any rate fixing determination of the administrative head or body to the board of supervisors. The board of supervisors shall prescribe the manner of holding such hearings and of taking appeals. The administrative head or body shall also adopt rules and regulations, subject to approval of the board of supervisors, prescribing the terms and conditions under which service will be given to consumers, including the manner of paying bills for service, penalties for non-payment, discounts, deposits and other related matters. No water shall be sold to persons situated within a city, village, water district, water supply district or fire district in which there is a water distribution system operated by the municipality or district without the consent of such municipality or district. No sewage, wastewater, water quality treatment or refuse collection service shall be furnished to individual properties situated within a city, village or district which operates a sewer, wastewater disposal, water quality treatment or refuse system furnishing a similar service as the county district without the consent of such city, village or district. If the county water, water quality treatment, sewer, wastewater disposal, drainage or refuse district has a supply of water or facilities and capacity in excess of its own needs, the administrative head or body may sell such excess water to, or contract for the use of such facilities by, municipalities, district or persons outside the county district. Notwithstanding the provisions of sections two hundred seventy, two hundred seventy-one and two hundred seventy-four, revenues derived from water rates, water quality treatment charges, sewer rents and sewage, wastewater and refuse collection charges shall be applied toward the maintenance and operation of the water, water quality treatment, sewer, wastewater or refuse collection system and for the payment of debt service, to the extent such revenues are available.

2. The county treasurer, or comparable officer or body, shall collect and receive all rates, rentals, charges and other revenue of the district and keep a true account of all such receipts. Unpaid charges and rents shall be a lien upon the real property upon which or in connection with which services were provided as and from the first day fixed for payment of such charges and rents.

3. (a) An agreement between the water quality treatment district, acting through its administrative head, and an owner of a benefited parcel of property shall be entered into before the procurement, installation and maintenance of a water quality treatment unit or device. An agreement between such parties shall also be required for the modification and/or

maintenance of a water quality treatment unit or device which is in place at the time when the property becomes a part of the district, however, the modification and/or unit or device must first be approved by the state department of health. Such agreements may be amended from time to time by mutual consent of the district, acting through its administrative head, and the owner of a benefited parcel of property. The agreement shall set forth the amount to be paid by the owner attributable to the expense of procurement, installation and modification, as the case may be, of the water quality treatment unit or device, and shall contain a statement that the ownership of the treatment units or devices purchased by the district shall remain the property of the district and that charges for monitoring, testing, operation and maintenance shall be determined annually as provided in section two hundred seventy-one of this chapter. All of the expenses for the procurement and installation or modification may be paid at the time an agreement is entered into.

(b) The water quality treatment district, acting through its administrative head, subject to the approval of the board of supervisors, may authorize payment of the expenses of procurement, installation or modification of the water quality treatment unit or device over a period of time in annual installments. Such authorization shall set forth whether the annual installments shall be due and payable at the same time as town and county taxes are due or at another time. The option of paying such expenses in annual installments, if provided by authorization of the water quality treatment district, shall be available to each property owner in the district. If such annual installments shall be due at the same time as town and county taxes, the water quality treatment district, acting through its administrative head, shall transmit the amount of the annual installments to the county treasurer, or comparable officer or body for the levy and collection and enforcement of the same in the manner and at the same time as town and county taxes are levied, collected and enforced.

(c) Where the annual installments are to be paid at any other time, the authorization shall set forth the time and manner of payment and collection. Such authorization may be amended from time to time. If any portion or an installment for the procurement, installation and modification of such unit or device is not paid within thirty days of when it is due, the district, acting through its administrative head, shall notify the owner of the property that unless such amount is paid within ten days from the date of the notice, such unit or device may be removed at the expense of the property owner. If the owner fails to pay such amount by such date, the district, acting through its administrative head, may cause such unit or device to be removed. After such removal, the district, acting through its administrative head, shall send the owner a statement of the amount due, together with the amount of expense attributable to removal of such unit or device, and the total amount thereof shall be a lien upon such real property and collection thereof shall be enforced at the same time and in the manner as the collection of town and county taxes are enforced with interest as provided herein. If the unit or device is not so removed, the collection of the amount set forth in the first notice of delinquency shall be enforced at the same time and in the manner as the collection of town and county taxes are enforced. The total amount set forth in such first notice, together with interest thereon shall be a lien upon such real property until it is paid. Interest shall be charged at the rate of one percent per month or fraction thereof, subsequent to the expiration of the ten days notice, until paid or the date of tax sale, whichever is sooner.

(d) The agreement shall also contain a grant by the owner to the water quality treatment district, its agents, employees and representatives authorized to act on its behalf, a right of entry and access to the property, while such property is within such district, for the purposes of installation, modification, replacement, repair, monitoring, testing, operation and maintenance, regeneration and removal of the water quality treatment unit or device. Thereafter employees, agents and authorized representatives of the district shall have a right of entry and access to such property for the purposes specified herein, upon reasonable notice at reasonable times. If a lessee or occupant of said property refuses to allow such entry and access, the water quality treatment district may apply to a court of competent jurisdiction to enforce its right of entry and access. If entry and access was refused by the owner of the property, the water quality treatment district may in its discretion remove the water quality treatment unit or device at the expense of the owner, unless such unit or device was acquired and owned by the property owner and exclude the property from the district. Such expense together with any other charges accrued prior to such removal shall be collected in the manner provided in paragraph (c) of subdivision three-a of section two hundred sixty-six of this chapter [FN.].

4. The county treasurer, or comparable officer or body, shall prepare, and transmit to the board of supervisors, on or

before the first day of December in each year a list of those residents or property owners within the county who are in arrears in the payment of charges and rents for a period of thirty days or more after the last day fixed for payment of such charges and rents without penalty. The list shall contain a brief description of the properties for which the services were provided, the names of the persons or corporations liable to pay for the same and the amount chargeable to each, including penalties and interest computed to December thirty-first. The board of supervisors shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the various municipalities under the name of "county water charges," "county water quality treatment charges," "county sewer rents," "county sewer charges," "county wastewater disposal charges," or "county refuse collection charges". Such amounts, when collected by the several municipal collectors or receivers of taxes, shall be paid over to the county treasurer, or comparable officer or body. All of the provisions of the tax laws of the state of New York covering the enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid charges and rents. Such amounts, when received by the county treasurer, or comparable officer or body, shall be credited to the applicable county district fund and shall be used only for such county district purposes.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1964, c. 751, § 6; L.1965, c. 605; L.1980, c. 388, § 31; L.1984, c. 622, § 14.)

[FNI] So in original. No subd. 3-a has been enacted.

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 266 and 292. Former § 266 was added L.1953, c. 868; amended L.1958, c. 346, § 2; and repealed L.1963, c. 1018, § 4. Former § 292, formerly § 291, was added L.1954, c. 794; renumbered § 292 and amended L.1955, c. 449, §§ 7, 8; L.1958, c. 346, § 5; and repealed L.1963, c. 1018, § 4.

#### CROSS REFERENCES

Enforcement of collection of delinquent taxes, see RPTL § 1000 et seq.  
 Levy and collection of real property taxes, see RPTL § 900 et seq.  
 Sewer rents, imposition of, see General Municipal Law § 450 et seq.

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Counties ↪ 90, 107, 114, 160, 190.1.  
Environmental Law ↪ 371.  
Municipal Corporations ↪ 712(8).  
Waters and Water Courses ↪ 202, 203(1) to 203(15).  
Westlaw Topic Nos. 104, 149E, 268, 405.  
C.J.S. Counties §§ 132, 147, 161, 194.  
C.J.S. Waters §§ 616, 640, 643, 646, 651, 656, 659 to 665, 669 to 732.

## RESEARCH REFERENCES

### Encyclopedias

NY Jur. 2d, Counties, Towns, & Municipal Corp. § 230, Other Powers.

NY Jur. 2d, Counties, Towns, & Municipal Corp. § 259, Manner of Exercise--Emergency Situation as Affecting Manner of Exercising Power.

NY Jur. 2d, Water § 138, Finances; Charges and Collections.

NY Jur. 2d, Water § 546, Powers and Duties of Administrative Head or Body.

NY Jur. 2d, Water § 622, Duty to Supply Water; Waterworks Corporation--Water Districts.

NY Jur. 2d, Water § 670, County Water Districts.

NY Jur. 2d, Water § 682, Rate-Making Authority; Municipality--Water Districts.

NY Jur. 2d, Water § 683, Notice and Hearing Prior to Adoption of Rate.

NY Jur. 2d, Water § 688, Appeal and Review--County Water Districts.

NY Jur. 2d, Water § 689, Use of Profits.

NY Jur. 2d, Water § 696, Water Districts; Counties.

NY Jur. 2d, Water § 698, Water Charges and Rents as Liens.

NY Jur. 2d, Water § 805, Powers and Duties of Administrators.

NY Jur. 2d, Water § 812, Sewage or Wastewater Disposal Charges, Rents, and Revenues.

NY Jur. 2d, Water § 813, Sewage or Wastewater Disposal Charges, Rents, and Revenues--Unpaid Charges and Rents.

### Forms

McKinney's Forms, Tax Practice and Procedure Real Property Tax Law § 4:2, Case-Law Developments.

## NOTES OF DECISIONS

Charges 1

Connection to sewer 2

Exemption from charges 3

Payments, generally 4

1. Charges

When there is no actual data to compute sewage treatment charges for preceding year, taxing authorities may determine sewage treatment charges based upon any equitable basis. Unifirst Corp. v. Town of Hamburg (4 Dept. 1995) 219 A.D.2d 822, 631 N.Y.S.2d 973. Municipal Corporations 712(8)

Sewer connection fees, to extent that they reflect actual and reasonable costs of regulating sewer connections, may be imposed by sewer districts upon property owners; those who tap into sewer system are "users" of system for purposes of authorizing statute, and such connection fees are "charges for the collection, conveyance, treatment and disposal of sewage" within meaning of the statute. Mark IV Const. Co., Inc. v. County of Monroe (4 Dept. 1992) 187 A.D.2d 985, 590 N.Y.S.2d 335. Municipal Corporations 712(3.1)

County commissioner of public works could establish schedule of charges for disposal of scavenger wastes without confirmation or approval of that schedule by county legislature. Long Island Liquid Waste Ass'n, Inc. v. Cass (2 Dept. 1985) 115 A.D.2d 710, 496 N.Y.S.2d 527, appeal dismissed 67 N.Y.2d 606, 501 N.Y.S.2d 1024, 492 N.E.2d 795, appeal dismissed 67 N.Y.2d 870, 501 N.Y.S.2d 664, 492 N.E.2d 792. Counties 21.5

Ad valorem tax and user fees are not mutually exclusive and may both be imposed for cost of establishing and maintaining county refuse district. Industrial Refuse Systems, Inc. v. O'Rourke, 1986, 134 Misc.2d 45, 509 N.Y.S.2d 988, affirmed as modified on other grounds 131 A.D.2d 650, 516 N.Y.S.2d 903, affirmed as modified on other grounds 129 A.D.2d 76, 516 N.Y.S.2d 940, appeal denied 70 N.Y.2d 610, 522 N.Y.S.2d 110, 516 N.E.2d 1223. Municipal Corporations 607; Municipal Corporations 961

Where a municipality has its own sewer system tying into the county system, this section is broad enough to permit the county to raise its costs by bulk sewer rentals allocated to the municipality, which would be obligated to pay the entire bulk charge to the county in the first instance; it would then be up to the municipality to collect any amounts due from individual users to whom it passed on the bulk charge. Op.State Compt. 79-592.

A board of supervisors may not charge a county sewer district for services rendered the district by the county treasurer. 29 Op.State Compt. 20, 1972.

A county water district may charge the Westchester County Water Works and the several municipalities a wholesale price for water consumed and use such revenues to cover debt service and the cost of operation and maintenance of a transmission system. 12 Op.State Compt. 260, 1956.

## 2. Connection to sewer

Lump-sum \$65,100 sewer connection charge imposed by county sewer district was not authorized by County Law permitting charges for collection, treatment and disposal of sewage; section contemplated periodic charges for services actually used, rather than lump-sum charge for anticipated use. Hamburg Associates Ltd. Partnership v. Board of Managers of Erie County Sewer Dist. No. 3 (4 Dept. 1987) 129 A.D.2d 990, 514 N.Y.S.2d 298, appeal dismissed 70 N.Y.2d 694, 518 N.Y.S.2d 1030, 512 N.E.2d 556. Counties 22; Counties 107

County resolution establishing sewer connection fee was unconstitutional as applied since it imposed uniform fee on all property newly connecting to sewer system of district without regard to whether development had necessitated expansion of existing facilities, or whether builders who had such fee assessed against them, or new homeowners would be primarily or proportionately benefitted by any such expansion, and thus, sewer impact fee constituted tax, violative of Federal and State Constitutions. Home Builders Ass'n of Cent. New York v. County of Onondaga, 1991, 151 Misc.2d 886, 573 N.Y.S.2d 863. Counties 107

A county legislature is empowered to impose a one-time charge to new users connecting to its sewer system, as a component part of its sewer rate schedule on behalf of the county sanitary district, based on the costs incurred in extending service to such users, rather than charging actual connection costs, so long as such charge is reasonably calculated to insure that the new users pay their fair share of the total cost of providing sewer service; superceding any prior contrary opinions. Op. State Compt. 85-61.

### 3. Exemption from charges

Properties ordinarily exempt from taxation or from positions of ad valorem levies or special assessments are not exempt from user charges imposed to finance county water, sewer, drainage, or refuse districts. Young Men's Christian Ass'n v. Rochester Pure Waters Dist. (4 Dept. 1974) 44 A.D.2d 219, 354 N.Y.S.2d 201, appeal granted 34 N.Y.2d 520, 359 N.Y.S.2d 1027, 316 N.E.2d 885, affirmed 37 N.Y.2d 371, 372 N.Y.S.2d 633, 334 N.E.2d 586. Counties  190.1

Property used for cemetery purposes would be subject to a county sewer district's "sewer unit charges" as would the property of other tax-exempt, non-profit organizations, provided, of course, that all such properties are actually hooked up to the sewer system, however, with respect to cemetery property, a delinquency in the payment of "sewer unit charges" could not be enforced by having the unpaid amount with penalties levied on the town-county tax roll. Op.State Compt. 78-344.

Sewer rents or charges may not be imposed on property owners who are not connected to the sewer system and a local law provision which defines "users", for the purpose of imposing sewer rents, to include property owners who are required to deposit sewage into the public sewers but who are not necessarily connected to the system, is improper. Op.Deputy Compt. 80-464.

### 4. Payments, generally

When an unpaid sewer user charge has been levied with town county taxes pursuant to this section, the unpaid sewer user charge is inseparable from the town-county taxes levied with it and both the charge and the taxes, which form the total figure on the tax bill, must be paid at the same time to the town collecting officer, of thereafter, to the county treasurer. Op.State Compt. 78-550.

When an unpaid sewer user charge remains unpaid after billing and has been levied with town-county taxes pursuant to this section the interest penalties on the unpaid charges may be subject to tax foreclosure and when that occurs, the sewer charge becomes indistinguishable and inseparable from the town-county taxes levied with it and as an integral component of the levy is subject to the penalty interest charges for the late payment of the tax foreclosure proceedings, the same as unpaid taxes. Op.State Compt. 78-550.

Sewer rents are not taxes, and thus, there is no legal prohibition against a county accepting partial payments of rental bills, provided that the arrearages accrue interest and are included in the next general tax levy, or otherwise enforced as provided by law. Op.State Compt. 78-357.

McKinney's County Law § 266, NY COUNTY § 266

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**Effective:[See Text Amendments]**McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)

▣ Chapter 11. Of the Consolidated Laws

▣ Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs &amp; Annos)

→→ § 270. Assessment of the cost

1. The expense of the establishment of a district, except a water quality treatment district, and of providing improvements therein, including the improvements described in section two hundred sixty-eight, shall be assessed, levied and collected from the several lots and parcels of land within the district in the same manner and at the same time as county charges, except that before any special assessment is levied pursuant to this section, the board of supervisors shall increase or diminish the aggregate valuations of real estate in that portion of any tax district included within the county district by following the equalization rule set forth in article eight of the real property tax law. The annual expense of operation and maintenance shall be assessed, levied and collected in the same manner and at the same time as the expense of the improvement is assessed, levied and collected.

2. The board of supervisors may adopt a resolution authorizing the application of the agricultural assessment established pursuant to article twenty-five-AA of the agriculture and markets law to the special assessment or special ad valorem levy made on behalf of a water, sewer, or sanitation district on land located within the water, sewer, or sanitation district and benefitting from such agricultural assessment. A copy of this resolution shall be delivered to the assessor or assessors of each town and shall be effective on the assessment roll prepared on the basis of the next taxable status date following its adoption. A resolution repealing this authorization shall similarly be delivered to the assessor or assessors of the town and shall be effective on the assessment roll prepared on the basis of the next taxable status date following its adoption.

3. Notwithstanding any other provisions of this chapter if zones of assessment have been initially established, and an initial allocation of the total estimated cost of the facilities has been made to such zones of assessment, the amount of the cost of the facilities so allocated to any such zone of assessment shall be annually assessed, levied and collected from the several lots and parcels of land within said zone of assessment within the district in the same manner and at the same time as other county charges, except that before any special assessment is levied pursuant to this section, the board of supervisors shall increase or diminish the aggregate valuations of real estate in that portion of any such zone of assessment included within the county district by following the equalization rule set forth in article eight of the real property tax law. The annual expense of operation and maintenance shall annually be allocated by the board of supervisors as between the zones of assessment of the district and shall be assessed, levied and collected from the several lots and parcels of land within each zone of assessment chargeable therewith, in the same manner and at the same time as county charges.

4. The board of supervisors, after holding a public hearing upon notice published in the same manner as provided in section two hundred fifty-four of this chapter, from time to time, by resolution may change either (1) the allocation of the cost of such facilities as between such zones of assessment or (2) the boundaries of such zones of assessment. After adoption of such resolution, application shall be made to the department of audit and control in the manner provided in section two hundred and fifty-eight of this chapter for a determination as to whether the proposed changes will result in an undue burden upon the property of any zone of assessment. The state comptroller shall make an order in duplicate

granting or denying permission for the proposed changes and thereafter, proceedings shall be taken in the same manner provided in section two hundred fifty-eight of this chapter.

5. Nothing in this section contained shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of expenditures made pursuant to this article.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1984, c. 622, § 16; L.1994, c. 590, § 17.)

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 269, 295, and 299-h. Said former § 269 was added L.1953, c. 868; amended L.1962, c. 851, § 8; and repealed L.1963, c. 1018, § 4. Said former § 295, formerly § 294, was added L.1954, c. 794; renumbered § 295 and amended L.1955, c. 449, § 9; and repealed L.1963, c. 1018, § 4. Said former § 299-h was added L.1955, c. 429; and repealed L.1963, c. 1018, § 4.

#### CROSS REFERENCES

Levy and collection of real property taxes, see RPTL § 900 et seq.

#### LIBRARY REFERENCES

##### 2004 Main Volume

Counties ↪ 22, 54, 192 to 194.

Drains ↪ 69, 75, 78.

Waters and Water Courses ↪ 183.5.

Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties §§ 41 to 42, 87 to 91, 229, 233 to 234.

C.J.S. Drains §§ 86, 90 to 92, 96.

C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

##### Encyclopedias

NY Jur. 2d, Counties, Towns, & Municipal Corp. § 230, Other Powers.

NY Jur. 2d, Taxation & Assessment § 753, Drainage, Flood Control, and the Like.

NY Jur. 2d, Taxation & Assessment § 757, Sewer Systems and Plants.

NY Jur. 2d, Taxation & Assessment § 758, Water and Waterworks.

NY Jur. 2d, Taxation & Assessment § 760, Refuse Disposal.

NY Jur. 2d, Taxation & Assessment § 874, Zone Rate.

NY Jur. 2d, Taxation & Assessment § 885, Change of Area of Assessment.

NY Jur. 2d, Taxation & Assessment § 942, Publication of Notice.

NY Jur. 2d, Water § 547, Generally; Increase and Improvement of Facilities.

NY Jur. 2d, Water § 549, Contracts With Public Authorities.

NY Jur. 2d, Water § 793, Increase and Improvement of Facilities.

NY Jur. 2d, Water § 809, Assessment of Cost.

#### Forms

McKinney's Forms, Local Gov't, County Law § 254 Form 2, Notice of Public Hearing on Proposal to Establish County Sewer District.

#### NOTES OF DECISIONS

##### Assessments 1

##### 1. Assessments

In respect to sewage and solid waste disposal facilities, the legislature has afforded individual counties the option of either creating separate special district or of dealing with the problem on a countywide level, and to the extent a county chooses the latter option, the use of countywide tax revenues to finance such "governmental function" is impliedly authorized by the statutory language. Riley v. Monroe County (4 Dept. 1976) 55 A.D.2d 91, 389 N.Y.S.2d 689, affirmed 43 N.Y.2d 144, 400 N.Y.S.2d 801, 371 N.E.2d 520. Counties 195

Financing of county water, sewer, drainage, or refuse districts may be by special ad valorem levy, special assessment, or user charges. Young Men's Christian Ass'n v. Rochester Pure Waters Dist. (4 Dept. 1974) 44 A.D.2d 219, 354 N.Y.S.2d 201, appeal granted 34 N.Y.2d 520, 359 N.Y.S.2d 1027, 316 N.E.2d 885, affirmed 37 N.Y.2d 371, 372 N.Y.S.2d 633, 334 N.E.2d 586. Counties 192; Counties 193

Where a county enters a contract for services to be performed for a county sewer district and the contract is terminated without cause by the district, any judgment for damages would be rendered against the county but the county must assess any judgment against the district. Op.State Compt. 80-201.

A county refuse district established on an ad valorem basis may not subsequently be changed to a benefit basis, and zones of assessment may not thereafter be established, although the district may establish user charges to pay both debt service and operation and maintenance costs. 32 Op.State Compt. 56, 1976.

Special ad valorem levies imposed on behalf of a county sewer district or a town fire district may be included in a

December 31 tax levy despite the fact that the county sewer district or town fire district was not established until after the filing of the final assessment roll upon which such charges are to be levied. The provisions in the County Law and the Town Law are dispositive of when liability attaches for county sewer district and town fire district special ad valorem levies. [4 Op.Counsel SBEA No. 58 superseded.] 11 Op.Counsel SBRPS No. 101, 2004 WL 16506461, 2004.

Since the jurisdiction of town assessors over assessment rolls ceases after the assessors complete and file the assessment roll in tentative form, special ad valorem, levies may not be imposed on the current assessment roll on behalf of county sewer districts after such roll has been tentatively filed. 4 Op.Counsel S.B.E.A. No. 58.

McKinney's County Law § 270, NY COUNTY § 270

Current through L.2012, chapters 1 to 447.

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**Effective:[See Text Amendments]**

McKinney's Consolidated Laws of New York Annotated Currentness  
County Law (Refs & Annos)

Chapter 11. Of the Consolidated Laws

Article 5-A. County Water, Sewer, Drainage and Refuse Districts (Refs & Annos)

→ → **§ 271. Alternative method of assessment**

1. Notwithstanding the provisions of the preceding section, if the notice of public hearing to be held by the board of supervisors pursuant to section two hundred fifty-four shall contain a statement that the cost of the improvement will be assessed in proportion as nearly as may be to the benefit which each lot or parcel of land will derive therefrom, and in the case of a water quality treatment district, such cost shall be assessed, levied and collected as hereinafter provided. The board of supervisors may determine to issue, pursuant to the local finance law, the obligations of the county in such an amount as said board may estimate to be sufficient to pay the entire cost of the improvement, but not in excess of the maximum amount proposed to be expended for the improvement as stated in the notice of hearing published pursuant to section two hundred fifty-four. In preparing the annual estimate of revenues and expenditures pursuant to section three hundred fifty-three of this chapter, the administrative head or body shall include, in addition to all costs of operation and maintenance for the next succeeding fiscal year, sums sufficient to pay the annual installment of principal of, and interest on, obligations issued as aforesaid. The administrative head or body shall thereupon annually assess the amount of the estimate of expenditures, less the estimate of revenues as set forth in the estimate so prepared, on the lots and parcels of land in the district in proportion as nearly as may be to the benefit which each lot or parcel will derive therefrom and shall prepare an assessment roll which shall describe each such lot or parcel of land in such manner that the same may be ascertained and identified and shall show the name or names of the reputed owner or owners thereof, and the aggregate amount of the assessment levied upon such lot or parcel of land. The assessment roll shall be submitted to the budget officer at the same time as the estimate is submitted, for transmittal with the tentative budget to the clerk of the board of supervisors. The assessment roll shall remain on file in the office of the clerk and be open to public inspection during business hours. The board of supervisors shall hold a public hearing on the assessment roll. Notice of such public hearing shall be published at least once in the official newspapers stating that said assessment roll has been completed and that at a time and place to be specified therein the board of supervisors will meet and hear and consider any objections which may be made to the roll. The first publication of the notice of the completion of the roll shall be not less than five days before the date specified for the hearing. At the time and place specified, the board of supervisors shall meet and hear and consider any objections to the assessment roll, and may change or amend the same as it deems necessary or just so to do and may affirm and adopt the same as originally proposed or as amended or changed, or they may annul the same and order the administrative head or body to proceed anew and to prepare another roll or the board of supervisors may prepare such new roll. No such amended, changed or new roll shall be adopted unless the board of supervisors shall hold a hearing thereon in the manner and upon the notice prescribed for the original hearing. It shall be the duty of the board of supervisors to levy the sum apportioned to and assessed upon each such lot or parcel of land at the time and in the manner provided by law for the levy of state, county or town taxes. Such sums so levied shall be collected by the local tax collectors or receivers of taxes and assessments and shall be paid over to the county treasurer, or comparable officer or body, in the same manner and at the same time as taxes levied for general county purposes. The county treasurer, or comparable officer or body, shall keep a separate account of such moneys and they shall be used only for purposes of the county district for which collected. Nothing herein shall prevent the public hearing on the assessment roll from being held simultaneously with the hearing on the county budget held pursuant to section three hundred fifty-nine of this chapter.

If the cost of establishment of the county district and the providing of an improvement therein has been assessed, levied and collected pursuant to the provisions of this section, then the cost of any improvement made pursuant to section two hundred sixty-eight shall be assessed, levied and collected pursuant to the provisions of this section. If the cost of establishment of the county district and the providing of an improvement therein has been assessed, levied and collected pursuant to the provisions of section two hundred seventy, then the cost of any improvement made pursuant to section two hundred sixty-eight shall be assessed, levied and collected pursuant to the provisions of section two hundred seventy.

2. If the cost of establishment of a county sewer district is assessed, levied and collected pursuant to the provisions of this section, then the cost of any street lateral sewers included in the district or constructed as an improvement to it under section two hundred sixty-eight, shall be assessed, levied, and collected from the properties, lots or parcels fronting or abutting thereon. The provisions of this subdivision two shall not apply to the Southwest sewer district, also known as county sewer district number three, in the county of Suffolk.

3. In the case of water quality treatment districts, the board of supervisors shall cause to be prepared estimates required to meet expenses for the annual monitoring, testing, operation and maintenance of the district, at the same time as provided in this section for the preparation of the assessment roll. Such annual estimates shall contain the anticipated revenue and expenditures for such district for the ensuing year. It shall also show the amount of expenses which shall be apportioned or charged against each lot or parcel within such district in proportion as nearly as may be to the benefit which each such lot or parcel will derive therefrom. After such annual estimates have been prepared the board of supervisors shall cause a notice to be published in the official newspapers that the same may be examined in the office of the clerk and that a public hearing will be held thereon by the board of supervisors, specifying the time when and the place where such hearing will be held. Such public hearing may be held on the same day as the hearing on the county budget pursuant to section three hundred fifty-nine of this chapter. Such notice shall be published at least five days before such hearing. After such hearing the board of supervisors shall adopt such estimates or it may amend and modify the same. If the amount apportioned against any one parcel is increased after the public hearing, the board of supervisors shall hold another public hearing on like notice. Such annual estimates and the apportionment against each such lot or parcel shall be adopted by the board of supervisors no later than the date of adoption of the annual county budget. After such adoption such annual estimates shall be filed in the office of the county clerk, and the board of supervisors shall levy the amount apportioned to each lot or parcel at the time and in the manner provided by law for the levy of town and county taxes. Such amount so levied shall be collected and enforced at the same time and in the manner that town and county taxes are collected and enforced. Nothing in this section contained shall be construed to prevent the financing, in whole or in part, of expenditures by private sources, grants or by other means.

#### CREDIT(S)

(Added L.1963, c. 1018, § 1. Amended L.1964, c. 751, § 7; L.1972, c. 737, § 1; L.1984, c. 622, §§ 17, 18.)

#### HISTORICAL AND STATUTORY NOTES

##### 2004 Main Volume

##### Derivation

Former §§ 270 and 296. Said former § 270 was added L.1953, c. 868; and repealed L.1963, c. 1018, § 4. Said former § 296, formerly § 295, was added L.1954, c. 794; renumbered § 296 and amended L.1955, c. 449, § 9; L.1960, c. 1012; and repealed L.1963, c. 1018, § 4.

Laws 1961, c. 113 legislation

Laws 1961, c. 113, eff. March 13, 1961, provided:

"Section 1. The Gates-Chili-Ogden sewer district of the county of Monroe is hereby excepted from the provisions of subdivision two of section two hundred ninety-six [now this section] of the county law as added by chapter one thousand twelve of the laws of nineteen hundred sixty.

"§ 2. All assessments heretofore levied and collected by the Gates-Chili-Ogden sewer district of the county of Monroe are hereby validated, ratified and confirmed notwithstanding any defect or irregularity therein or omission of any lawful requirements or lack of statutory authority therefor in relation to the collection thereof."

#### CROSS REFERENCES

Levy and collection of real property taxes, see RPTL § 900 et seq.

#### LIBRARY REFERENCES

2004 Main Volume

Counties ☞ 22, 90, 192 to 194.

Drains ☞ 78, 79.

Waters and Water Courses ☞ 183.5.

Westlaw Topic Nos. 104, 137, 405.

C.J.S. Counties §§ 41 to 42, 132, 229, 233 to 234.

C.J.S. Drains §§ 96 to 97.

C.J.S. Waters §§ 543 to 581.

#### RESEARCH REFERENCES

Encyclopedias

NY Jur. 2d, Counties, Towns, & Municipal Corp. § 230, Other Powers.

NY Jur. 2d, Public Securities § 18, Public Improvements and Facilities.

NY Jur. 2d, Taxation & Assessment § 942, Publication of Notice.

NY Jur. 2d, Water § 138, Finances; Charges and Collections.

NY Jur. 2d, Water § 809, Assessment of Cost.

NY Jur. 2d, Water § 811, Assessment of Cost--Extension of District.

Forms

McKinney's Forms, Local Gov't, County Law § 254 Form 2, Notice of Public Hearing on Proposal to Establish County Sewer District.

McKinney's Forms, Local Gov't, County Law § 299-O Form 1, Application by Board of Supervisors for Permission to

Establish County Small Watershed Protection District.

## NOTES OF DECISIONS

### Notice 2

#### Special assessments 1

##### 1. Special assessments

Where apartment owners challenged only classifications of apartment units for sewer assessments, proper course of action was to first exhaust administrative remedies by seeking a change or amendment in assessment rolls prior to final adoption of the assessment, by appearing and objecting at public hearings and, if not successful, to commence timely Article 78 proceeding; owners could not challenge assessment in the first instance by way of judicial action for declaratory judgment absent showing that administrative remedies had been exhausted. Press v. Monroe County (4 Dept. 1979) 72 A.D.2d 915, 422 N.Y.S.2d 195, affirmed 50 N.Y.2d 695, 431 N.Y.S.2d 394, 409 N.E.2d 870. Municipal Corporations 712(9)

Statutory scheme allows counties to establish water, sewer, drainage, or refuse district by imposition of special ad valorem levies or special assessments, and to finance operations through user charges. Young Men's Christian Ass'n v. Rochester Pure Waters Dist. (4 Dept. 1974) 44 A.D.2d 219, 354 N.Y.S.2d 201, appeal granted 34 N.Y.2d 520, 359 N.Y.S.2d 1027, 316 N.E.2d 885, affirmed 37 N.Y.2d 371, 372 N.Y.S.2d 633, 334 N.E.2d 586. Counties 192; Counties 193

Real property owned by the Metropolitan Transportation Authority is exempt from special assessments. 5 Op.Counsel SBEA No. 96 overruled. 10 Op.Counsel SBRPS No. 16.

##### 2. Notice

County legislature's publication in county newspapers of timely notice of public hearings on special benefit assessments provided the affected property owners with adequate notice, though such property owners did not receive the additional written notice that had been sent to other landowners in a newly-acquired zone of water district who were unfamiliar with benefit assessment process. Donohue v. Dutchess County Legislature (2 Dept. 2000) 277 A.D.2d 377, 717 N.Y.S.2d 607. Counties 22

Property owners were not denied their due process or equal protection rights in connection with county legislature's levy of special benefit assessments against their property, though other landowners in a newly-acquired zone of water district had received additional written notice of public hearings, where legislature published timely notice of public hearings on benefit assessment in county newspapers, and property owners appeared by counsel at hearing and filed grievances with legislature. Donohue v. Dutchess County Legislature (2 Dept. 2000) 277 A.D.2d 377, 717 N.Y.S.2d 607. Constitutional Law 3487; Constitutional Law 4061; Counties 22

McKinney's County Law § 271, NY COUNTY § 271

Current through L.2012, chapters 1 to 447.

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**Effective: July 2, 2001**

McKinney's Consolidated Laws of New York Annotated Currentness

Real Property Tax Law (Refs & Annos)

Chapter 50-A. Of the Consolidated Laws

▣ Article 4. Exemptions

▣ Title 3. Miscellaneous Provisions

→ → § 490. Exemption from special ad valorem levies and special assessments

Real property exempt from taxation pursuant to subdivision two of section four hundred, subdivision one of section four hundred four, subdivision one of section four hundred six, sections four hundred eight, four hundred ten, four hundred ten-a, four hundred ten-b, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four hundred fifty, four hundred fifty-two, four hundred fifty-four, four hundred fifty-six, four hundred sixty-four, four hundred seventy-two, four hundred seventy-four and four hundred eighty-five of this chapter shall also be exempt from special ad valorem levies and special assessments against real property located outside cities and villages for a special improvement or service or a special district improvement or service and special ad valorem levies and special assessments imposed by a county improvement district or district corporation except (1) those levied to pay for the costs, including interest and incidental and preliminary costs, of the acquisition, installation, construction, reconstruction and enlargement of or additions to the following improvements, including original equipment, furnishings, machinery or apparatus, and the replacements thereof: water supply and distribution systems; sewer systems (either sanitary or surface drainage or both, including purification, treatment or disposal plants or buildings); waterways and drainage improvements; street, highway, road and parkway improvements (including sidewalks, curbs, gutters, drainage, landscaping, grading or improving the right of way) and (2) special assessments payable in installments on an indebtedness including interest contracted prior to July first, nineteen hundred fifty-three, pursuant to section two hundred forty-two of the town law or pursuant to any other comparable provision of law.

CREDIT(S)

(L.1958, c. 959. Amended L.1959, c. 733, § 1; L.1971, c. 417, § 7; L.1980, c. 904, § 2; L.1981, c. 105, § 1; L.1981, c. 919, § 8; L.1984, c. 473, § 12; L.1992, c. 316, § 9; L.2001, c. 87, § 3, eff. July 2, 2001.)

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

L.2001, c. 87 legislation

L.2001, c. 87, § 3, deleted "four hundred forty-eight," and substituted ", four hundred seventy-four and four hundred eighty-five" for "and four hundred seventy-four".

Derivation