

WITHDRAWN AS OF 09/01/2011
AMENDED COPY AS OF 6/13/2011

Intro. Res. No. 1547-2011

Laid on Table 6/7/2011

Introduced by Presiding Officer, on request of the County Executive and Legislators D'Amato, Barraga, Cilmi, Muratore

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW
NO. -2011, A CHARTER LAW UTILIZING ASSESSMENT
STABILIZATION RESERVE FUND SURPLUSES FOR
ENHANCING SEWER CAPACITY AND COUNTY-WIDE
TAXPAYER PROTECTION**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 3, 2011, a proposed local law entitled, "**A CHARTER LAW UTILIZING ASSESSMENT STABILIZATION RESERVE FUND SURPLUSES FOR ENHANCING SEWER CAPACITY AND COUNTY-WIDE TAXPAYER PROTECTION;**" now, therefore be it

RESOLVED, that said local law be enacted in final form as follows:

LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK

**A CHARTER LAW UTILIZING ASSESSMENT STABILIZATION
RESERVE FUND SURPLUSES FOR ENHANCING SEWER
CAPACITY AND COUNTY-WIDE TAXPAYER PROTECTION**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

The Legislature finds and determines that the Assessment Stabilization Reserve Fund (ASRF) received funding from 1985 to 1989. In 1989 the quarter cent allocation was redirected to Fund 475-the Water Quality Protection Reserve Fund. ASRF received no additional tax revenue until 1994.

The Legislature further finds and determines that the passage of Local Law No. 35-1999 renewed ASRF funding through the deposit of 35.7% of total revenues generated by the quarter cent sales tax. The passage of Local Law No. 24-2007 reduced the transfer to ASRF to 25% of sales tax receipts.

The Legislature further finds and determines that ASRF was initially established to mitigate spikes in costs associated with operating the County's Sewer Districts to users within the districts of our sanitary sewers. Eligibility to access these funds is based upon piercing a predetermined threshold of cost increase; currently three percent. Today the Fund not only mitigates increases to user fees but also provides loans to existing districts for infrastructure improvements within the capital budget.

The Legislature further finds and determines that the Adopted 2011 Operating Budget estimated a year-end ASRF fund balance in excess of \$154 million by December 31, 2011. In addition, the Budget Review Office recommended review of legislation to determine whether

these funds are narrowly limited to rate mitigation and to determine what, if any changes, are necessary to assure their availability for enhancing existing capacity.

Therefore, the purpose of this law is to provide budgetary tools to use excess fund balances in ASRF for enhancing existing capacity and improving overall sewerage and water protection, and providing County-wide taxpayer protection generally.

Section 2. Amendments.

Section 12-2(D) of the SUFFOLK COUNTY CHARTER is hereby amended to read as follows:

Article XII Suffolk County Drinking Water Protection Program

D.) Sewer taxpayer protection: 25% of the total revenues generated each calendar year for sewer district tax rate stabilization only in those instances in which the pertinent sewer district will experience an increase in rates of at least 3% in the aggregate for user charges, operations and maintenance charges, per-parcel charges, and ad valorem assessments in the calendar year for which these sewer district tax stabilization revenues are being allocated. The Suffolk County Sewer Assessment Stabilization Fund is hereby created. 25% of the total revenues generated each calendar year by such sales and compensating use tax shall be allocated and deposited annually to this Trust Fund. The annual appropriation of such revenues shall be effectuated via duly enacted resolution of the County of Suffolk and shall not reduce the projected rate increase below 3% in the aggregate for user charges, operations and maintenance charges, per parcel charges, and ad valorem assessments for the year in question. If the revenues generated in any year, including calendar year 2030, exceed the amount necessary to provide such stabilization, then such excess revenues shall be carried over as a fund balance for sewer district tax rate stabilization, provided, however, that such fund balance shall not exceed \$140 million in fiscal year 2011, and every subsequent fiscal year through fiscal year 2021.

1.) In the event such fund balance exceeds \$140 million in fiscal year 2011, or any subsequent fiscal year through 2021, sixty-two and one-half of one (62.5%) percent of the excess fund balance may be used, via a duly adopted and approved legislative resolution, for installation, improvement, maintenance and operation of sewer infrastructure and sewage treatment plants, and for the installation of residential and commercial enhanced nitrogen removal septic systems. No less than \$1.5 million shall be appropriated in fiscal year 2011, or any subsequent fiscal year through 2021, for the installation of residential and commercial enhanced nitrogen removal septic systems. In the event that the appropriation, or any part thereof, for the installation of the residential and commercial enhanced nitrogen removal septic system is not used in fiscal year 2011, or any subsequent fiscal year through 2021, it shall be used for installation, improvement, maintenance and operation of sewer infrastructure and sewage treatment plants.

a.) A Sewer Infrastructure Committee is hereby established to review all proposed projects for sewer infrastructure, sewage treatment and enhanced nitrogen removal septic systems. This Committee shall make advisory recommendations to the County Executive

and the County Legislature as to which projects shall be funded.
The Committee shall consist of the following members:

i.) the Director of Planning, or designee;

ii.) the Commissioner of the Department of Public Works, or designee;

iii.) the Commissioner of Health Services, or designee;

iv.) the Commissioner of Economic Development & Workforce Housing, or designee;

v.) the Presiding Officer of the County Legislature, or designee;

vi.) the Minority Leader of the County Legislature, or designee; and

vii.) the County Executive, or designee.

2.) Thirty-seven and one-half of one (37.5%) percent of the excess fund balance shall be appropriated to a contingency or a tax stabilization reserve fund established pursuant to section 6-e of the General Municipal Law (County Fund 403 or any successor fund), to a reserve fund for bonded indebtedness established pursuant to section 6-h of the General Municipal Law, or to a retirement contribution reserve fund established pursuant to section 6-r of the General Municipal Law (County Fund 420 and any successor fund).

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to

Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall not take effect until at least sixty (60) days after its adoption, nor until approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting on a proposition for its approval if within sixty (60) days after its adoption there is filed with the Clerk of the County Legislature a petition protesting against this law in conformity with the provisions of Section 34(4) of the NEW YORK MUNICIPAL HOME RULE LAW and upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language.
___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: